



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

C. Maynard Guest, M.D.
Executive Secretary

July 8, 1993

CERTIFIED MAIL-RETURN RECEIPT REQUEST

David Micci, M.D.
4049 Big Tree Road
Hamburg, New York 14075

RE: License No. 109267
Effective Date: 7/15/93

Dear Dr. Micci:

Enclosed please find Order #BPMC 93-97 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

-----X

IN THE MATTER :

OF :

DAVID MICCI, M.D. :

ORDER

BPMC #93-97

-----X

Upon the Application of DAVID MICCI, 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:

6 July 1993

Charles J. Vacanti

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

IN THE MATTER
OF
DAVID MICCI, M.D.

: APPLICATION TO
:
: SURRENDER
:
: LICENSE
:

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

DAVID MICCI, M.D., being duly sworn, deposes and says:

On or about July 16, 1971, I was licensed to practice as a physician in the State of New York having been issued License No. 109267 by the New York State Education Department.

I am registered with the New York State Education Department to practice as a physician in the State of New York for the period beginning on January 1, 1993, and ending on December 31, 1994. My registration address is 4049 Big Tree Road, Hamburg, New York 14075.

I understand that I have been charged with Thirty four specifications 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 permission to surrender my license as a physician in the State of New York on the grounds that I admit guilt to the first specification of professional misconduct set forth in the 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

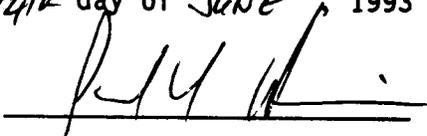
striking my name from the roster of physicians in the State of New York without further notice to me.

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



DAVID MICCI, M.D.
Respondent

Sworn to before me this
24th day of JUNE, 1993



NOTARY PUBLIC

PAUL L. DENNIS
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 7/31 '94

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

IN THE MATTER
OF
DAVID MICCI, M.D.

: APPLICATION TO
:
: SURRENDER
:
: LICENSE
:

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

Date: 6/24, 1993



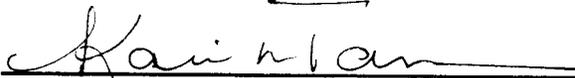
DAVID MICCI, M.D.
Respondent

Date: 6/25, 1993



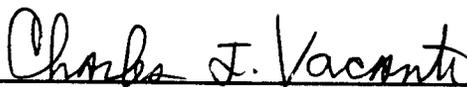
KEVIN P. DONOVAN
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: 7/7, 1993



KATHLEEN M. TANNER
Director, Office of Professional
Medical Conduct

Date: 6 July 1993



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
DAVID MICCI, M.D. : CHARGES
-----X

DAVID MICCI, M.D., the Respondent, was authorized to practice medicine in New York State on July 16, 1971, by the issuance of license number 109267 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993, through December 31, 1994, with a registered address of 4049 Big Tree Road, Hamburg, New York 14075.

FACTUAL ALLEGATIONS

- A. Respondent wrote prescriptions for Patient A in 1991 and 1992.
1. Respondent prescribed Vicodin E.S. (Oxycodone 7.5 mg and acetaminophen 750 milligram) to Patient A in excessive quantities and without adequate medical indication between January 1991 and February 1992.
 2. Respondent maintained no medical records for Patient A.
 3. Respondent diverted medication he prescribed for Patient A (Vicodin ES - Oxycodone 7.5 milligram and acetaminophen 750 mg.) for his own use.

Exhibit "A"

B. Respondent treated Patient B, a 44 year old female, at his office at 55 Melroy, Lackawanna, New York.

1. Respondent inappropriately gave 5 blank signed prescription forms to Patient B.
2. Respondent inappropriately administered Decadron, xylocaine, vitamin B12, and/or sterile water to Patient B.
3. Respondent administered to Patient B what he referred to as "magic shots," "triple magic shots," "industrial strength shots," "industrial strength magic shot," and "super industrial strength magic shots."

C. Respondent treated Patient C, a male of unknown age, for an unknown period of time, at his office.

1. Respondent prescribed excessive medication to Patient C, namely Soma (Carisoprodol 350 mg.).
2. Respondent maintained no medical records for Patient C.

D. Respondent treated Patient D, a male born in approximately 1924, from approximately 1986 through at least 1992, at his office.

1. Respondent failed to appropriately treat Patient D's diabetes.
2. Respondent reported a diagnosis of "syndrome x" for Patient D.
3. Respondent inappropriately administered "magic shots" which contained Decadron, xylocaine, vitamin B12 and/or sterile water to Patient D.
4. Respondent refused to divulge to Patient D the content of the "magic shots," claiming that they were a trade secret.

5. Respondent failed to evaluate on October 13, 1992 a newly noticed atrial fibrillation and speech impediment of Patient D.

E. Respondent treated Patient E, a female in her mid-thirties, in 1990 and 1991, at his office.

1. Respondent inappropriately administered Decadron, xylocaine, vitamin B 12, and/or sterile water to Patient E.
2. Respondent prescribed excessive medication to Patient E namely, Soma, Tylenol with Codeine # 4, and Talwin.

F. Respondent treated Patient F, a patient approximately 40 years old, from about 1989 through 1992, at his office.

1. Respondent inappropriately administered Dexamethasone to Patient F, causing the patient's adrenal insufficiency and resulting in her hospitalization.
2. Respondent prescribed excessive medication for Patient F namely Valium, Vicodin, Demerol, Nubain, Talwin, Acetaminophen and Percocet.

G. Respondent treated Patient G, a 27 year old male, at the emergency room of DeGraff Memorial Hospital, North Tonawanda, New York, on March 23, 1993. Respondent had a history of heavy alcohol consumption, of vomiting coffee ground and bright red material, and of loss of 15 pounds in 2 weeks.

1. Respondent failed to perform an appropriate evaluation of Patient G including rectal examination, lab tests for pancreatitis and investigation of reported gastrointestinal bleed.

H. Respondent treated Patient H, a 42 year old male, at the emergency room of Our Lady of Victory Hospital, Lackawanna, New York.

1. Respondent failed to adequately evaluate Patient H's blood pressure of 169/144.
2. Respondent failed to perform an adequate examination of Patient H, who was presenting with abdominal pain, including a rectal examination.

I. Respondent treated Patient I, a 24 year old female, at the emergency room of Our Lady of Victory Hospital.

1. Respondent failed to perform an adequate examination of Patient I who presented with abdominal pain, including a rectal examination.
2. Respondent failed to prescribe appropriate follow-up or therapy for Patient I's positive urine culture.

J. Respondent treated Patient J, a 28 year old female, at the emergency room of Our Lady of Victory Hospital.

1. Respondent failed to adequately address Patient J's complaint of no menstrual period in two months despite a negative pregnancy test at the hospital, and her complaints of upper abdominal pain.
2. Respondent failed to appropriately evaluate Patient J's complaints of frequent urination.

K. Respondent treated Patient K, a 46 year old female, at the emergency room of Our Lady of Victory hospital.

1. Respondent failed to adequately evaluate Patient K's complaint of severe abdominal pain during menses, including but not limited to failure to perform rectal or pelvic examinations.

L. Respondent treated Patient L, an 18 year old male, at the emergency room in DeGraff Memorial Hospital.

1. Respondent misread a wrist X-ray of Patient L as negative when in fact the X-ray showed a fractured base of the 4th metacarpal with comminution and impaction.

M. Respondent treated Patient M, a 28 year old male, at the emergency room of DeGraff Memorial Hospital.

1. Respondent failed to appropriately evaluate Patient M for the witnessed grand mal seizure which precipitated the patient's visit to the emergency room, and did not arrange for appropriate follow-up care for the patient.

N. Respondent treated Patient N, a 48 year old female, at the emergency room of our Lady of Victory Hospital.

1. Respondent failed to perform an adequate workup of Patient N for abdominal pain and nausea, including but not limited to failure to perform a rectal exam.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

PRACTICING WITH NEGLIGENCE ON MORE

THAN ONE OCCASION

The Respondent is charged with practicing the profession of medicine with negligence on more than one occasion under N.Y. Educ. Law -6530(3) (McKinney Supp. 1993) [formerly N.Y. Educ. Law -6509(2)] in that Petitioner charges two or more of the following:

1. The facts of paragraphs A and A.1, A and A.2, B and B.1, B and B.2, B and B.3, C and C.1, C and C.2, D and D.1, D and D.2, D and D.3, D and D.5, E and E.1, E and E.2, F and F.1, F and F.2, G and G.1, H and H.1, H and H.2, I and I.1, I and I.2, J and J.1, J and J.2, K and K.1, L and L.1, M and M.1, and/or N and N.1.

SECOND SPECIFICATION

PRACTICING WITH INCOMPETENCE ON

MORE THAN ONE OCCASION

The Respondent is charged with practicing the profession of medicine with incompetence on more than one occasion under N.Y. Educ. Law -6530(5) (McKinney Supp. 1993) [formerly N.Y. Educ. Law -6509(2)] in that Petitioner charges two or more of the following:

2. The facts of paragraphs A and A.1, A and A.2, B and B.1, B and B.2, B and B.3, C and C.1, C and C.2, D and D.1, D and D.2, D and D.3, D and D.5, E and E.1,

E and E.2, F and F.1, F and F.2, G and G.1, H and H.1, H and H.2, I and I.1, I and I.2, J and J.1, J and J.2, K and K.1, L and L.1, M and M.1, and/or N and N.1.

THIRD THROUGH SIXTEENTH SPECIFICATIONS

PRACTICING WITH GROSS NEGLIGENCE

Respondent is charged with practicing the profession of medicine with gross negligence under N.Y. Educ. Law -6530(4) (McKinney Supp. 1993), [formerly N.Y. Educ. Law -6509(2)] in that Petitioner charges:

3. The facts of paragraphs A and A.1, and/or A and A.2.
4. The facts of paragraphs B and B.1, B and B.2, and/or B and B.3.
5. The facts of paragraph C and C.1 and/or C and C.2.
6. The facts of paragraphs D and D.1, D and D.2, D and D.3, and/or D and D.5.
7. The facts of paragraphs E and E.1, and/or E and E.2.
8. The facts of paragraphs F and F.1, and/or F and F.2.
9. The facts of paragraphs G and G.1.
10. The facts of paragraphs H and H.1, and/or H and H.2.
11. The facts of paragraphs I and I.1, and/or I and I.2.
12. The facts of paragraphs J and J.1, and/or J and J.2.
13. The facts of paragraphs K and K.1.
14. The facts of paragraphs L and L.1.
15. The facts of paragraphs M and M.1.

16. The facts of paragraphs N and N.1.

SEVENTEENTH THROUGH THIRTIETH SPECIFICATIONS

PRACTICING WITH GROSS INCOMPETENCE

Respondent is charged with practicing the profession of medicine with gross incompetence under N.Y. Educ. Law -6530(6) (McKinney Supp. 1993) [formerly N.Y. Educ. Law -6509(2)] in that Petitioner charges:

17. The facts of paragraphs A and A.1, and/or A and A.2.
18. The facts of paragraphs B and B.1, B and B.2, and/or B and B.3.
19. The facts of paragraph C and C.1 and/or C and C.2.
20. The facts of paragraphs D and D.1, D and D.2, D and D.3, and/or D and D.5.
21. The facts of paragraphs E and E.1, and/or E and E.2.
22. The facts of paragraphs F and F.1, and/or F and F.2.
23. The facts of paragraphs G and G.1.
24. The facts of paragraphs H and H.1, and/or H and H.2.
25. The facts of paragraphs I and I.1, and/or I and I.2.
26. The facts of paragraphs J and J.1, and/or J and J.2.
27. The facts of paragraphs K and K.1.
28. The facts of paragraphs L and L.1.
29. The facts of paragraphs M and M.1.
30. The facts of paragraphs N and N.1.

THIRTY-FIRST THROUGH THIRTY-FOURTH SPECIFICATIONS

PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with practicing the profession fraudulently under N.Y. Educ. Law -6530(2) (McKinney Supp. 1993) [formerly N.Y. Educ. Law -6509(2)] in that Petitioner charges:

31. The facts of paragraphs A and A.1, and/or A and A.3.
32. The facts of paragraphs B and B.1, B and B.2, and/or B and B.3.
33. The facts of paragraphs D and D.3, and/or D and D.4
34. The facts of paragraphs E and E.1.

DATED: Albany, New York

June 25, 1993



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