



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

October 3, 1994

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Merlyn Abel Bissell, M.D.
28 Prospect Street
Attica, New York 14011

RE: License No. 036656

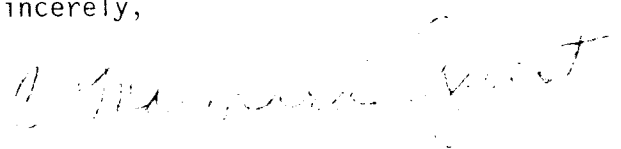
Dear Dr. Bissell:

Enclosed please find Order #BPMC 94-208 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

Enclosures

cc: Frederick Rarick, Esq.
9093 Alleghany Road
Corfu, NY 14036-9765

Roy Nemerson, Esq.

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

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IN THE MATTER :
OF : ORDER
MERLYN ABEL BISSELL, M.D. : #BPMC-94-208

-----X

Upon the Application of MERLYN ABEL BISSELL, 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: 28 September 1994

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 : APPLICATION TO
OF : SURRENDER
MERLYN ABEL BISSELL, M.D. : LICENSE

STATE OF NEW)
COUNTY OF) SS.:

MERLYN ABEL BISSELL, M.D., being duly sworn, deposes and says:

On or about August 30, 1934, I was licensed to practice as a physician in the State of New York having been issued License No. 036656 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.

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", based upon certain factual allegation, also set forth in Exhibit "A".

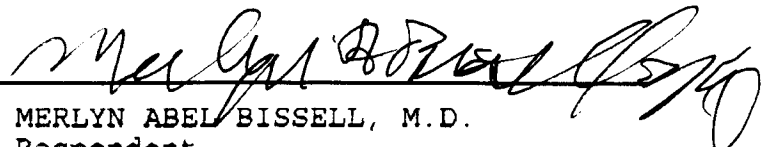
I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I admit the truth of the factual allegations set forth in Exhibit A, that I stipulate that said factual allegation support the Specification of professional misconduct as set forth in Exhibit A, and that I admit guilt to said Specification. As it is in my interest to resolve, simultaneously, both actions, including the Public Health Law Article 33 Proceeding and the State Board for Professional Medical Conduct Proceeding pursuant to Section 230 of the Public Health Law, I specifically waive any objection to the fact that the Commissioner of Health or his designee has not yet issued an order finding me guilty of violating Article 33 of the Public Health Law, (henceforth: "Article 33 order") said Article 33 order to be issued upon my stipulation. This Application to the State Board for Professional Medical Conduct, to Surrender my licence is, however, specifically conditioned upon the issuance of such Article 33 Order resolving my pending action pursuant to Article 33 of the Public Health Law. In the event that the Commissioner or his designee decline to issue the Article 33 Order, I shall retain the right to withdraw this Application to Surrender.

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.

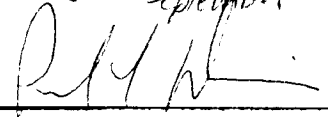
I agree that in the event the State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

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



 MERLYN ABEL BISSELL, M.D.
 Respondent

Sworn to before me this
 16TH day of September, 1994



 NOTARY PUBLIC

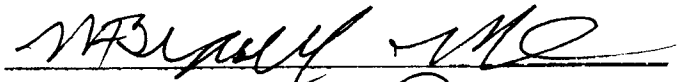
PAUL L. DENNIS
 Notary Public, State of New York
 Qualified in Erie County
 My Commission Expires 7-31-19 96

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

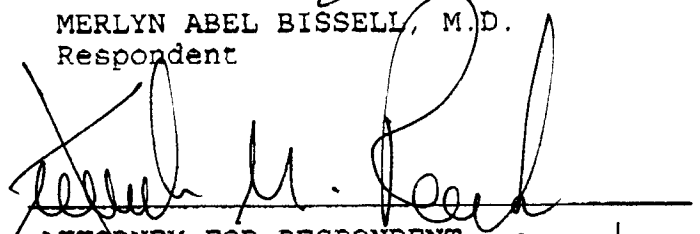
IN THE MATTER : APPLICATION TO
OF : SURRENDER
MERLYN ABEL BISSELL, M.D. : LICENSE

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


Date: 9-15, 1994


MERLYN ABEL BISSELL, M.D.
Respondent

Date: 9-15, 1994


ATTORNEY FOR RESPONDENT
(if any) FREDERICK M. RORICK

Date: 9-15, 1994


ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

MERLYN ABEL BISSELL, M.D.

Date: Sept 23, 1994

Kathleen M. Tanner

KATHLEEN M. TANNER
Director, Office of Professional
Medical Conduct

Date: 28 September 1994

Charles J. Vacanti

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

EXHIBIT A

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

-----X

IN THE MATTER : STATEMENT

OF : OF

MERLYN ABEL BISSELL, M.D. : CHARGES

-----X

MERLYN ABEL BISSELL, M.D., the Respondent, was authorized to practice medicine in New York State on August 30, 1934 by the issuance of license number 036656 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.

ALLEGATIONS

- A. Respondent has entered into a stipulation with the New York State Department of Health authorizing the Commissioner of Health, through his designee, to find Respondent guilty of violation of Article 33 of the New York Public Health Law (copy of stipulation with attachments is included in this Application and designated as Appendix I).

SPECIFICATION

1. Respondent is charged with professional misconduct, within the meaning of N.Y. Educ. Law Section 6530(9)(e) in that Respondent has admitted guilt to a violation of Article 33 of the New York Public Health Law, thereby consenting to the issuance of an order consistent therewith by the Commissioner of Health of the State of New York, in that Petitioner alleges the facts in Paragraph A.

DATED: New York, New York

CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

APPENDIX I

STATE OF NEW YORK : DEPARTMENT OF HEALTH

IN THE MATTER
OF
Alleged Violations of Article 33 of the Public Health Law
BY
MERLYN BISSELL, M.D.
Respondent

STIPULATION
AND
ORDER

WHEREAS, the New York State Department of Health, Bureau of Controlled Substances, has investigated various actions by MERLYN BISSELL, M.D. ("Respondent") which concern alleged violations of Article 33 of the Public Health Law and Part 51 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York;

WHEREAS, Respondent and the New York State Department of Health wish to settle this matter without the necessity of a hearing;

THEREFORE, the parties hereby stipulate and agree as follows:

1. Respondent waives his right to an administrative hearing and Respondent admits and the Commissioner finds violations of Public Health Law §3304(1) in full satisfaction of the Amended Statement of Charges issued to Respondent on August 30, 1994 (attached hereto and made a part hereof.)
2. Respondent submits to the jurisdiction of the New York State Department of Health.
3. Pursuant to §§12 and 206 of the Public Health Law, the Commissioner hereby assesses

against Respondent a civil penalty of Ten Thousand dollars (\$10,000.00).

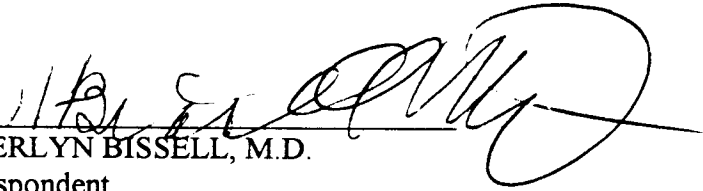
4. The Commissioner hereby suspends the full amount of the aforesaid civil penalty contingent upon Respondent's compliance with the terms of this Stipulation and Order and provided that Respondent effects a voluntary permanent surrender of his New York State medical license and registration to the Office of Professional Medical Conduct contemporaneously with the execution of this Stipulation and Order.
5. Respondent represents that he has surrendered any and all inventory of controlled substances which he may have had in his possession or under his control to a representative of the Bureau of Controlled Substances, pursuant to Part 80.51 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York, and that at the time of the execution of this Stipulation and Order he is no longer in possession or in control of any such controlled substances.
6. Respondent represents that he has already surrendered any and all unused official New York state prescription forms which he may have had in his possession or under his control and that at the time of the execution of this Stipulation and Order he is no longer in possession or in control of any such forms.
7. In the event that Respondent is found to have committed any violation of this Stipulation and Order, Respondent shall, upon written notice by the Department, be liable for the entire amount of the aforementioned civil penalty.
8. There exist valid and sufficient grounds, as a matter of law and fact, for the issuance of this Stipulation and Order and the parties consent to its terms and conditions.

Respondent waives any right to challenge or review this Stipulation and Order through

administrative or judicial proceedings, including a proceeding pursuant to Article 78 of the Civil Practice Law and Rules.

9. This Stipulation and Order shall be effective immediately upon service of a fully executed copy hereof upon Respondent or Respondent's attorney by certified mail or by personal service.
10. This Stipulation and Order is subject to the acceptance and approval of the Commissioner of Health, or his designee, who, if satisfied, will execute this Stipulation and Order. Furthermore, a copy of this Stipulation and Order, together with other pertinent information will be forwarded to the Office of Professional Medical Conduct pursuant to Public Health Law §3396(5).

DATED: Buffalo, New York
September 16, 1994


MERLYN BISSELL, M.D.
Respondent

DATED: Buffalo, New York
September 16, 1994

MARK R. CHASSIN, M.D., Commissioner
New York State Department of Health

BY:



JOEL D. ISAACSON, Senior Attorney
New York State Department of Health

SO ORDERED:

DATED: Albany, New York
1994

MARK R. CHASSIN, M.D., Commissioner
New York State Department of Health

BY:

JERRY DELUISE, Assistant Counsel
New York State Department of Health

Inquiries to: Joel D. Isaacson, Senior Attorney
Division of Legal Affairs
Corning Tower, Rm. 2412
Empire State Plaza
Albany, New York 12237

Telephone: (518) 474-5237

IN THE MATTER
OF
Alleged Violations of Article 33 of the Public Health Law
BY
MERLYN BISSELL, M.D.
Respondent

AMENDED
STATEMENT
OF
CHARGES

The Commissioner of Health of the State of New York, upon information and belief, charges and alleges that the Respondent has violated provisions of Article 33 of the Public Health Law and Chapter II, Subchapter J, Part 80 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) as set forth herein:

- 1) Public Health Law §3304(1) in that from the period of January 10, 1990 to December 21, 1992, the Respondent prescribed a controlled substance in contravention of Article 33 of the Public Health Law as set forth below.
 - 2) Public Health Law §3332(3) and 10 NYCRR 80.67(c) in that the Respondent issued official New York State prescriptions for quantities of controlled substances before the ultimate users had exhausted all but a seven (7) day supply of the controlled substance provided by previous prescriptions if used in accordance with the directions for use, to wit:
 - a) on November 15, 1990 a prescription was issued to J.M.* for 60 Dilaudid tablets, a thirty
- *Identified on Attachment A

(30) day supply if taken in accordance for use, and two other prescriptions for 60 Dilaudid tablets were issued on November 20, 1990 and November 25, 1990 and from November 30, 1990 to December 28, 1990 six other prescriptions for 90 Dilaudid tablets were issued,

b) on May 16, 1990 a prescription was issued to G.S. for 90 Valium 10mg. tablets, a thirty (30) day supply if taken in accordance with the directions for use, and from June 6, 1990 to July 25, 1990 three other prescriptions for 90 Valium 10mg. tablets were issued,

c) on April 16, 1990 a prescription was issued to S.S. for 90 Valium 10mg. tablets, a thirty (30) day supply if taken in accordance with the directions for use, and from May 8, 1990 to June 30, 1990 four other prescriptions for 90 Valium 10mg. tablets were issued; and

d) on December 21, 1990 a prescription was issued to S.S. for 90 Dilaudid tablets, a thirty (30) day supply if taken in accordance with the directions for use, and on December 26, 1990 and December 31, 1990 two other prescriptions each for 90 Dilaudid tablets were issued.

Each occurrence constitutes a separate violation for which a penalty may be imposed.

2) Public Health Law §3335(1) and 10 NYCRR 80.69(a) and 10 NYCRR 80.65 in that the Respondent did not prescribe controlled substances in Schedule III only by written prescription, in good faith, and in the course of his professional practice, to wit:

a) on three occasions between November 10, 1992 and December 21, 1992, Respondent prescribed a total of 1020 Anexsia tablets, and 2160cc of Tussionex on six written prescriptions for two undercover operatives posing as patients. The operatives neither exhibited nor verbalized any medical need for the controlled substances. Respondent issued these prescriptions without conducting a medical examination of either patient;

- b) on December 21, 1992, Respondent prescribed a total of 720cc of Tussionex on one written prescription bearing the patient name of M.S. This prescription was issued to an undercover operative using the name of Gary Stiles, posing as a patient. Respondent did not see M.S. on that occasion and issued the prescription at the request of the operative, Gary Stiles; and
- c) between March 23, 1990 and January 20, 1992, Respondent prescribed a total of 840 Fiorinal tablets on four written prescriptions and 120 Tylenol w/ Codeine #3 tablets on one written prescription. These five prescriptions bear the patient name of S.T, and were issued to L.T. Respondent disclosed that he never saw or treated S.T. as a patient. Respondent further admitted that the controlled substances obtained pursuant to the prescriptions he issued in S.T.'s name were actually for L.T.'s use.

Each occurrence constitutes a separate violation for which a penalty may be imposed.

3) Public Health Law §3335(2) and 10 NYCRR 80.69(b) in that the Respondent issued prescriptions for controlled substances that did not contain the following information:

1. name, address and age of the ultimate user for whom the substance is intended.
2. specific directions for the use, including the maximum daily dosage.
3. the date upon which such prescription was actually signed by the prescribing practitioner. To wit;

a) on at least 122 occasions between January 17, 1990 and April 6, 1992, Respondent issued 122 controlled substance prescriptions to 38 patients which lacked the following information:

1. 99 prescriptions which lacked the name, address, or age of the ultimate user.
2. 122 prescriptions which lacked the maximum daily dose.
3. 5 prescriptions which lacked the date upon which the prescription was signed by

the Respondent.

Each occurrence constitutes a separate violation for which a penalty may be imposed.

- 4) Public Health Law §3335(3) and 10 NYCRR 80.69(c) in that the Respondent issued prescriptions for controlled substances before the ultimate users had exhausted all but a seven day supply provided by previous prescriptions if used in accordance with the directions for use, to wit:
- a) on January 22, 1992, a prescription was issued to S.C. for 120 Anexsia 7.5 mg tablets with two refills, a ninety (90) day supply if taken in accordance with the directions for use, and on January 28, 1992 another prescription for 120 Anexsia 7.5 mg tablets was issued;
 - b) on June 18, 1990, a prescription was issued to D.F. for 120 doses of Tussionex with two refills, a thirty-six (36) day supply if taken in accordance with the directions for use, and on June 19, 1990 another prescription for 180 doses of Tussionex was issued;
 - c) on August 9, 1991, a prescription was issued to E.G. for 90 Darvon 65mg tablets with one refill, a sixty (60) day supply if taken in accordance with the directions for use, and on September 13, 1991 another prescription for 90 Darvon 65 mg tablets was issued;
 - d) on October 11, 1991, a prescription was issued to A.J. for 120 Anexsia 7.5 mg tablets with five refills, a one hundred eighty (180) day supply if taken in accordance with the directions for use, and on February 7, 1992 a prescription was issued for 120 Vicodin 7.5 mg tablets and on March 9, 1992 another prescription for 120 Anexsia 7.5 mg tablets was issued;
 - e) on September 4, 1991, a prescription was issued to R.J. for 120 Lortab 7.5 mg tablets with five refills, a one hundred eighty (180) day supply if taken in accordance with the directions for use, and on November 20, 1991 and February 7, 1992 two other prescriptions for 120 Lortab

7.5 mg tablets were issued;

f) on March 26, 1991, a prescription was issued to G.K. for 120 Meprobamate 400 tablets with three refills, a one hundred twenty (120) day supply if taken in accordance with the directions for use, and on July 10, 1991 another prescription for 120 Meprobamate 400 tablets with four refills, a one hundred fifty (150) day supply if taken in accordance with the directions for, was issued and on October 22, 1991 another prescription for 90 Meprobamate 400 tablets was issued;

g) on December 10, 1990, a prescription was issued to J.M. for 60 Tylenol #4 tablets with five refills, a one hundred eighty (180) day supply if taken in accordance with the directions for use, and on January 14, 1991 a prescription for 90 Tylenol #4 tablets with five refills, on April 24, 1991 a prescription for 90 Tylenol #3 tablets with four refills, on May 16, 1991 a prescription for 90 Tylenol #3 tablets with five refills, on June 21, 1991 a prescription for 60 Tylenol #4 tablets with five refills, on October 30, 1991 a prescription for 90 Tylenol #3 tablets with three refills, and on January 29, 1992 a prescription for 90 Tylenol #4 tablets with one refill were issued;

h) on October 14 1991, a prescription was issued to D.M. for ninety (90) Tylenol #3 tablets with five refills, a one hundred eighty day supply if taken in accordance with the directions for use, and on December 16, 1991 another prescription for 30 Tylenol #3 with two refills was issued;

i) on May 10, 1990 a prescription was issued to G.S. for 90 Tylenol #4 tablets with four refills, a one hundred fifty (150) day supply if taken in accordance with the directions for use, and from June 16, 1990 to October 28, 1990 five other prescriptions for 90 Tylenol #3 or Tylenol

#4 tablets with a total of 23 refills were issued;

j) on December 27, 1991, a prescription was issued to C.S. for 120 Anexsia 7.5 mg tablets with two refills, a ninety (90) day supply if taken in accordance with the directions for use, and on January 24, 1992 another prescription for 120 Anexsia 7.5 mg tablets with three refills was issued and on March 11, 1992 a prescription for 120 Vicodin ES tablets was issued;

k) on September 21, 1990, a prescription was issued to L.T. for sixty (60) Tylenol #3 with five refills, a one hundred eighty (180) day supply if taken in accordance with the directions for use, and on January 18, 1991 a prescription for 60 Tylenol #3 tablets with one refill, on March 1, 1991 a prescription for 60 Tylenol #3 tablets with five refills, on July 19, 1991 a prescription for 60 Tylenol #3 tablets with five refills, and on December 16, 1991 a prescriptions for 60 Tylenol #3 tablets with two refills were issued; and

l) on September 21, 1990, a prescription was issued to L.T. for sixty (60) Fiorinal tablets with five refills, a one hundred eighty (180) day supply if taken in accordance with the directions for use, and on January 18, 1991, March 1, 1991, July 19, 1991, and December 16, 1991 four other prescriptions for 60 Fiorinal tablets with a total of thirteen refills were issued.

Each occurrence constitutes a separate violation for which a penalty may be imposed.

5) 10 NYCRR 80.62(b) in that the Respondent failed to maintain a written patient record of prescribing of all controlled substances, to wit:

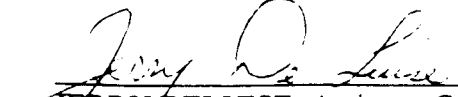
a) on at least 217 occasions between January 10, 1990 and April 6, 1992, Respondent issued controlled substance prescriptions to 42 patients and failed to denote this prescribing in a patient record.

Each occurrence constitutes a separate violation for which a penalty may be imposed.

DATED: Albany, New York
August 30, 1994

MARK R. CHASSIN, M.D., Commissioner
New York State Department of Health

BY:



JERRY DELUISE, Assistant Counsel
New York State Department of Health

Inquiries to: Joel D. Isaacson, Senior Attorney
Division of Legal Affairs
Corning Tower, Rm. 2412
Empire State Plaza
Albany, New York 12237

Telephone: (518) 474-5237