



## Board for Professional Medical Conduct

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

C. Maynard Guest, M.D.  
Executive Secretary

March 18, 1992

### CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Bernard C. Musselman, M.D.  
215 Rensselaer  
Ogdensburg, New York 13869

RE: License No. 087348

Effective Date: March 25, 1992

Dear Dr. Musselman:

Enclosed please find Order #BPMC 92-24 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 12237-0614

Sincerely,

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

Enclosure

cc: Francis H. Musselman, Esq.  
P.O. Box 289  
Hammond, New York 13646

Michael Hiser, Esq.

bcc: Chris Hyman  
Peter VanBuren  
Norman Andrzejewski  
Kenneth Spooner  
Faith Schottenfeld  
Anne Bohenek  
Vincent Martiniano

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

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IN THE MATTER :  
OF : ORDER  
BERNARD MUSSELMAN, M.D. : #BPMC 92-24

-----X

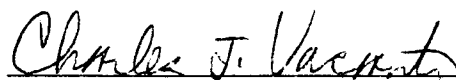
Upon the Application of BERNARD MUSSELMAN, M.D., which application is made a part hereof, it is

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

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or seven days after mailing by certified mail.

SO ORDERED,

DATED: 13 March 1992



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



a physician in the State of New York on the grounds that I do not contest the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Specifications, in that I do not contest the factual allegations A and A.1, B and B.1, B and B.2, C and C.1, D and D.1, D and D.2, E and E.1, and E and E.2, including those allegations following "and/or", all in full satisfaction of the charges.

I hereby make this application to the Board and request that it be granted.

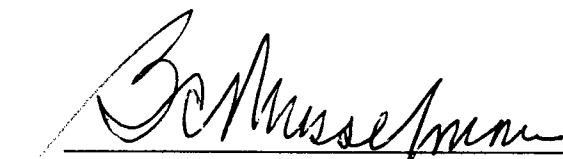
I understand that, in the event that the application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me; such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

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

I further agree that the order of the Chairperson shall include a provision that I shall not apply for the restoration

of my license until at least one (1) year has elapsed from the effective date of the service of such order. I understand that such application is not automatically granted but may be granted or denied.

No promises of any kind were made 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.

  
\_\_\_\_\_  
BERNARD C. MUSSELMAN, M.D.  
Respondent

Sworn to before me this  
9<sup>th</sup> day of March, 1992

  
\_\_\_\_\_  
NOTARY PUBLIC


**NANCY A. THOMPSON**  
Notary Public State of New York  
St. Lawrence County  
My Commission Expires 8/4/93

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

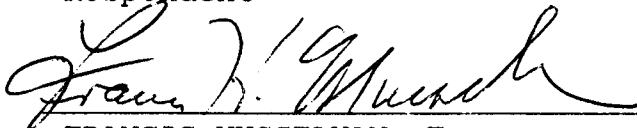
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IN THE MATTER : APPLICATION TO  
OF : SURRENDER  
BERNARD C. MUSSELMAN, M.D. : LICENSE  
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The undersigned agree to the attached application of the Respondent to surrender license.


Date: Mar 9, 1992

  
BERNARD C. MUSSELMAN, M.D.  
Respondent

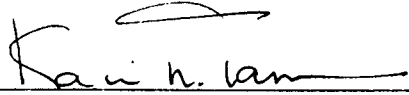
Date: Mar 9, 1992

  
FRANCIS MUSSELMAN, Esq.  
Attorney for Respondent

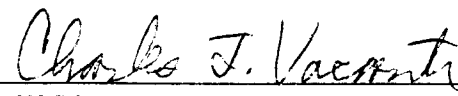
Date: March 11, 1992

  
MICHAEL A. HISER  
Assistant Counsel

Date: March 17, 1992

  
KATHLEEN M. TANNER  
Director, Office of Professional  
Medical Conduct

Date: 13 March 1992

  
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

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IN THE MATTER : STATEMENT  
OF : OF  
BERNARD C. MUSSELMAN, M.D. : CHARGES  
-----X

BERNARD C. MUSSELMAN, M.D., the Respondent herein [hereafter "the Respondent"], was authorized to practice medicine in New York State on May 22, 1962 by the issuance of license number 087438 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. He was last registered for the period January 1, 1989 through December 31, 1991 from 215 Rensselaer, Ogdensburg, New York 13869.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A (all Patients are identified in Appendix A) a six-year old boy, at the emergency room of the A. Barton Hepburn Hospital (the "Hospital") on August 15, 1985. Patient A had complaints of drowsiness after having hit his head in a bicycle accident approximately 4 hours earlier.

1. Respondent administered Thorazine to Patient A, which was not indicated and/or was contra-indicated.

B. Respondent provided medical care to Patient B, a baby born at the Hospital at 30-32 weeks of gestation, from Patient B's birth on March 25, 1985 through Patient B's death on March 26, 1985. Patient B had Respiratory Distress Syndrome.

1. Respondent failed to accurately assess Patient B's chance for survival if Patient B were transferred to a regional perinatal center for more advanced treatment not available at the Hospital.
2. Respondent informed Patient B's parents that Patient B would likely survive even if not transported to a regional perinatal center for more advanced treatment not available at the Hospital, when in fact Patient B had only a 10-20% chance for survival without such treatment.

C. Respondent provided medical care to Patient C, a 3 and a half-year old boy, at various times from March 16, 1983 through Spring, 1984. Patient C initially complained of leg pains for 2 weeks. On March 21-22, 1983, Patient C presented with weakness in the lower extremities and a neurogenic full bladder. Respondent diagnosed Patient C at that time with Guillian-Barre Syndrome. Patient C was diagnosed with a retroperitoneal cancer on May 2, 1983.

1. Respondent, having diagnosed Patient C as having Guillian-Barre Syndrome and a neurogenic full bladder as of



March 21-22, 1983, failed to seek a neurologic consultation for Patient C.

D. Respondent provided medical care to Patient D, a two year old girl, on December 25, 1989 at the emergency room of the Hospital. Patient D had complaints of temperature of 103<sup>0</sup>F, dysuria, and urinary frequency.

1. Respondent failed to perform and/or record an assessment of Patient D's high white blood cell count or high bacteria in Patient D's urinalysis prior to diagnosing Patient D with an upper respiratory infection.
2. Respondent, having made a diagnosis of upper respiratory infection, failed to obtain adequate diagnostic tests for Patient D, including a chest x-ray, blood culture and clean catch urine sample.

E. Between February 1, 1972 and April 10, 1990, Respondent had no active registration with the United States Drug Enforcement Administration ("DEA") to prescribe controlled substances.

1. Respondent, despite having no DEA registration, willfully or with gross negligence violated federal law (21 U.S.C. §§822(a)(2), 841(a)(1), and 21 C.F.R. §1301.21) by prescribing controlled substances on numerous occasions between February 1, 1972 and April 10, 1990.
2. Respondent knowingly misrepresented that he had a valid DEA registration to write prescriptions for controlled substances from October, 1987 through March 1990.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with practicing the profession of medicine with gross negligence on a particular occasion under N.Y. Educ. Law sec. 6530(4) (McKinney Supp. 1992), in that Petitioner charges:

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

FOURTH THROUGH SIXTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with practicing the profession of medicine with gross incompetence under N.Y. Educ. Law sec. 6530(6) (McKinney Supp. 1992), in that Petitioner charges:

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

SEVENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession of medicine with negligence on more than one occasion under N.Y. Educ. Law sec. 6530(3) (McKinney Supp. 1992), in that Petitioner charges that Respondent committed two or more of the following:

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

EIGHTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession of medicine with incompetence on more than one occasion under N.Y. Educ. Law sec. 6530(5) (McKinney Supp. 1992), in that Petitioner charges that Respondent committed two or more of the following:

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

NINTH SPECIFICATION

WILLFUL OR GROSSLY  
NEGLIGENT FAILURE TO COMPLY WITH  
SUBSTANTIAL PROVISIONS OF FEDERAL, STATE,  
OR LOCAL LAW, RULES OR REGULATIONS

The Respondent is charged with a willful or grossly negligent failure to comply with substantial provisions of federal law governing the practice of medicine under N.Y. Educ. Law sec. 6530(16) (McKinney Supp. 1992), in that Petitioner charges Respondent committed the following:

9. The facts in Paragraphs E and E.1.

TENTH SPECIFICATION

FAILING TO MAINTAIN RECORDS

Respondent is charged with committing unprofessional conduct under N.Y. Educ. Law sec. 6530(32) (McKinney Supp. 1992), by failing to maintain records for Patient D which accurately reflect the evaluation and treatment of that patient, in that Petitioner charges that Respondent committed the following:

10. The facts in Paragraph D and D.1.

ELEVENTH SPECIFICATION


PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with practicing the profession of medicine fraudulently under N.Y. Educ. Law sec. 6530(2) (McKinney Supp. 1992), in that Petitioner charges:

11. The facts in Paragraph E and E.2.

DATED: Albany, New York

*March 11, 1992*

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