

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

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IN THE MATTER :

OF :

BARRY F. PORTNOY, M.D. :

ORDER

BPMC 93-159

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Upon the Application of Barry F. Portnoy, M.D.  
(Respondent) to Surrender his 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

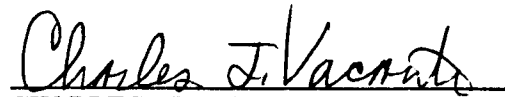
ORDERED, that the name of Respondent be stricken from  
the roster of physicians in the State of New York; it is further

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: 30 September 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

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IN THE MATTER :

OF :

BARRY F. PORTNOY, M.D. :

APPLICATION TO

SURRENDER

LICENSE  
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STATE OF FLORIDA )

COUNTY OF SEMINOLE )

ss.:

BARRY F. PORTNOY, M.D., being duly sworn, deposes and says:

In or about June 22, 1966, I was licensed to practice as a physician in the State of New York, having been issued License No. 096605 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that I have been charged with two 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 and Second Specifications of professional misconduct as 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

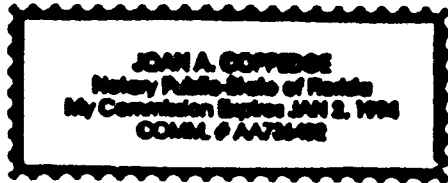
striking my name from the roster of physicians in the State of New York without further notice to me.

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

*Barry F. Portnoy, M.D.*

\_\_\_\_\_  
BARRY F. PORTNOY, M.D.  
Respondent

Sworn to before me this 17TH  
day of SEPTEMBER, 1993 IN KISSIMMEE, OSCEOLA COUNTY,  
FLORIDA. *Identification shown. Florida driver's  
license.*  
*Joan A. Coppidge*  
\_\_\_\_\_  
NOTARY PUBLIC



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

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IN THE MATTER

OF

BARRY F. PORTNOY, M.D.  
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: APPLICATION TO  
:  
: SURRENDER  
:  
: LICENSE  
:

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

Date: 17 SEPT, 1993

Barry F. Portnoy, MD  
BARRY F. PORTNOY, M.D.  
Respondent

Date: Sept. 23, 1993

Michael A. Hiser  
MICHAEL A. HISER  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

Date: Oct 6, 1993

Kathleen M. Tanner  
KATHLEEN M. TANNER  
Director, Office of Professional  
Medical Conduct

Date: 30 September 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

-----X  
IN THE MATTER :  
OF :

BARRY F. PORTNOY, M.D. :  
-----X

STATEMENT  
OF  
CHARGES

BARRY F. PORTNOY, M.D., the Respondent, was authorized to practice medicine in New York State on June 22, 1966, by the issuance of license number 096605 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, 1986 through December 31, 1988, from 30 Juniper Drive, Ormond Beach, Florida 32074.

FACTUAL ALLEGATIONS

A. On or about March 21, 1989, in case #88-71 CR-ORL-19 in the United States District Court for the Middle District of Florida, Respondent pled guilty to willfully, knowingly, and unlawfully defrauding the Social Security Administration of the Department of Health and Human Services, United States Government, by obtaining payment of false and fraudulent claims relating to social security disability insurance benefits, all



in violation of 18 U.S.C. §286. Respondent also pled guilty to aiding and abetting in the conversion of monies of the United States to his own use, in violation of 18 U.S.C. §§641 and 642. Judgement was entered on June 9, 1989.

B. Based on his conviction, Respondent was sentenced to be imprisoned for a term of 14 months, and was required to make restitution in the amount of \$66,009.00 to the Social Security Administration, Department of Health and Human Services, and in the amount of \$15,000.00 as a fine. Following his release from imprisonment, Respondent was placed on supervised release for a term of three years.

C. On or about March 9, 1992, Respondent entered into a Consent Order with the Board of Medicine, Department of Professional Regulation, State of Florida ("Florida Board"), the duly authorized disciplinary agency of the State of Florida. By Final Order dated on or about April 22, 1992, the Consent Agreement, as amended, was approved by the Florida Board.

D. The terms of the Consent Order, as amended, provided as follows, in relevant part:

1. Respondent was fined \$3,000.00;
2. Respondent received a reprimand from the Florida Board of Medicine;
3. Respondent's license to practice medicine in Florida was suspended until he received an approved psychiatric evaluation to demonstrate his ability to practice medicine with skill and safety. Once Respondent received such an evaluation, Respondent was to be placed on five years probation; and

4. Within two years subsequent to the reactivation of Respondent's license to practice medicine, Respondent was to perform 125 hours of community service.

E. The conduct of Respondent that resulted in the suspension of his medical license in the State of Florida, and the other disciplinary action imposed involving his license, would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically New York Education Law §6530(2) (practicing the profession fraudulently); §6530(9)(a)(ii) being convicted of committing an act constituting a crime under federal law; §6530(20) (conduct in the practice of medicine which evidences moral unfitness to practice medicine); and §6530(21) (willfully making or filing a false report required by law).

FIRST SPECIFICATION

BEING CONVICTED OF COMMITTING AN ACT  
CONSTITUTING A CRIME UNDER FEDERAL LAW

Respondent is charged with having been convicted of committing an act constituting a crime under federal law, within the meaning of N.Y. Educ. Law §6530(9)(a)(ii) (McKinney Supp. 1993), in that Petitioner charges:

1. The facts in Paragraphs A and B.




SECOND SPECIFICATION

HAVING DISCIPLINARY ACTION TAKEN AGAINST  
RESPONDENT BY A DULY AUTHORIZED PROFESSIONAL  
DISCIPLINARY AGENCY OF ANOTHER STATE

Respondent is charged with having disciplinary action taken against him by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1993), in that Petitioner charges:

2. The facts in Paragraphs C, D and E.

DATED: Albany, New York  
*September 10, 1993*

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