



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Charles J. Vacanti, M.D.
Chair

March 11, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Kenneth B. Winters, M.D.
5465 Oleta Street
Long Beach, California 90815

Re: License No. 136395

Dear Dr. Winters:

Effective Date March 18, 1996

Enclosed please find Order #BPMC 96-46 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,

Charles J. Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

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

-----X
IN THE MATTER :
OF : ORDER
KENNETH B. WINTERS, M.D. :
-----X

BPMC #96-46

Upon the Application of KENNETH B. WINTERS, M.D., 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 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: 5 March 1996

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 : APPLICATION TO
OF : SURRENDER
KENNETH B. WINTERS, M.D. : LICENSE

-----X

STATE OF CALIFORNIA)

ss.:

COUNTY OF LOS ANGELES)

Kenneth B. Winters, M.D., being duly sworn, deposes and says:

On or about October 20, 1978, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 136395 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 one specification 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.

I hereby plead no contest to the allegations and one specification set forth in the statement of charges (Exhibit A).

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.

Kenneth B. Winter M.D.
KENNETH B. WINTER, M.D.
Respondent

Sworn to before me this

16th day of *February*, 1996

[Signature]

NOTARY PUBLIC



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

-----X

IN THE MATTER : APPLICATION TO
OF : SURRENDER
KENNETH B. WINTERS, M.D. : LICENSE

-----X

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

Date: 2/15, 1996

Kenneth B. Winters
KENNETH B. WINTERS, M.D.
Respondent

Date: 2/29, 1996

Timothy J. Mahar
TIMOTHY J. MAHAR
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: 3/1, 1996

Anne Saile
ANNE F. SAILE
Acting Director, Office
of Professional Medical Conduct

Date: 5 March, 1996

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 : STATEMENT
OF : OF
KENNETH B. WINTERS, M.D. : CHARGES

-----X

KENNETH B. WINTERS, M.D., the Respondent, was authorized to practice medicine in New York State on October 20, 1978, by the issuance of license number 136395 by the New York State Education Department.

FACTUAL ALLEGATIONS

1. On or about November 23, 1994, Respondent entered into a stipulated settlement and disciplinary order with the Medical Board of the State of California (California Board), wherein Respondent consented to the stayed revocation of his medical license, and four years probation upon the following terms:

- a. Respondent's attendance and completion of an intensive clinical training program;
- b. the monitoring of Respondent's advertising in field of medical practice;
- c. Respondent's attendance and completion of an ethics course;
- d. Respondent payment of a fine in the amount of \$2,000 (two thousand dollars).

2. The conduct underlying the California Board's imposition of discipline upon Respondent included the following

as set forth in the administrative complaint brought before the California board of medicine:

- a. In 1991, Respondent prescribed Medifast for three patients for weight loss. Respondent failed to make entries in any of the patients' charts documenting their treatment with Medifast or the indications for such treatment.
- b. Respondent treated the same three patients with injections of vitamin B12 without making any entry in any of their charts documenting the medical indications for such treatment.
- c. In connection with his treatment of each of the three patients for weight loss, Respondent performed psychometric testing on each of the three patients which was not indicated.

3. The conduct upon which the California Board took disciplinary action against Respondent's license would, if committed in New York State, constitute Professional Misconduct under N.Y. Educ. Law §6530(3) [practicing the profession with negligence on more than one occasion]; §6530(4) [practicing the profession with gross negligence on a particular occasion]; §6530(5) [practicing the profession with incompetence on more than one occasion]; §6530(6) [practicing the profession with gross incompetence]; and/or §6530(32) [failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient].

SPECIFICATION OF MISCONDUCT

FIRST SPECIFICATION

Discipline by Other State

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9)(d) (McKinney Supp. 1996) by reason of having disciplinary action taken against his license to practice 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, in that Petitioner charges:

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

DATED: *January 30*, 1996
Albany, New York

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