



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

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Office of Professional Medical Conduct

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Ansel R. Marks, M.D., J.D.
Executive Secretary

December 22, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Todd P. Berner, M.D.
5203 Leesburg Pike #609
Falls Church, VA 22041

RE: License No. 159943

Dear Dr. Berner:

Enclosed please find Order #BPMC 00-355 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect December 22, 2000.

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 to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Robert Bogan, M.D.

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

IN THE MATTER
OF
TODD P. BERNER, M.D.

SURRENDER
ORDER
BPMC 00-355

TODD P. BERNER, M.D., says:

On or about September 17, 1984, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 159943 by the New York State Education Department. I currently reside at 5203 Leesburg Pike #609, Falls Church, VA 22041.

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 the New York State Board for Professional Medical Conduct has charged me with six (6) 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 an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I hereby agree not to contest the six (6) specifications set forth in the Statement of Charges (Exhibit A), as I do not intend to return to the state of New York to practice medicine.

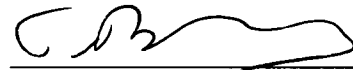
I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such proposed agreement shall not 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 Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is first.

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

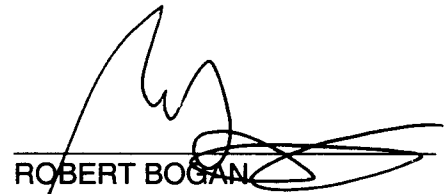
Date: Dec 8, 2000



TODD P. BERNER, M.D.
Respondent

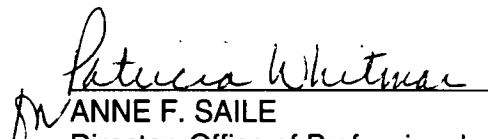
AGREED TO:

Date: 13 Dec 2000, 2000



ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical
Conduct

Date: 12/15, 2000



ANNE F. SAILE
Director, Office of Professional
Medical Conduct

ORDER

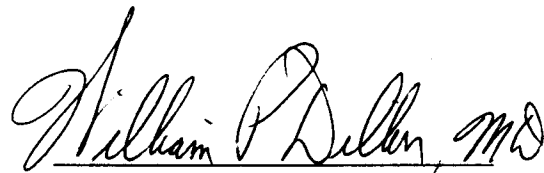
Upon the proposed agreement of **TODD P. BERNER, M.D.**, to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is **AGREED TO** and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

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

ORDERED, that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy to Respondent at the addresses set forth in this agreement, or to Respondent's attorney, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 12/18, 2000



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

"Exhibit A"

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

IN THE MATTER
OF
TODD P. BERNER, M.D.

STATEMENT
OF
CHARGES

TODD P. BERNER, M.D., the Respondent, was authorized to practice medicine in New York state on September 17, 1984, by the issuance of license number 159943 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 13, 2000, the Commonwealth of Virginia, Department of Health Professions, Board of Medicine (hereinafter "Virginia Board"), by an Order (hereinafter "Virginia Order I"), placed the Respondent's license on INDEFINITE PROBATION, with terms and conditions, based on inappropriate touching of a patient in a manner intended for his sexual arousal or gratification and inappropriate statements to that patient, and engaging in activities of a personal and sexual nature with a patient over a period of time from May 1997 to early 1999, that was inappropriate.

B. On or about May 16, 2000, Virginia Board, by a Consent Order, (hereinafter "Virginia Order II"), CONTINUED the Respondent's license on INDEFINITE PROBATION, based on the conduct described in Paragraph A above.

C. On or about May 23, 2000, the Virginia Board, by an Order, (hereinafter "Virginia Order III"), REPRIMANDED the Respondent and imposed a \$5,000.00 MONETARY PENALTY ,

based on his causing to be published in an advertising brochure, for his practice of medicine, information regarding his medical training omitting the fact he obtained his medical degree from Autonomous University of Guadalajara and, as written, implied he obtained all of his medical training at universities in the United States.

D. The conduct resulting in the Virginia Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules, or regulations);
4. New York Education Law §6530(20) (moral unfitness);
5. New York Education Law §6530(26) (performing services not authorized); and/or
6. New York Education Law §6530(27) (advertising not in the public interest).

SPECIFICATIONS

FIRST THROUGH THIRD SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(b) by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based 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 paragraph A and/or D.
2. The facts in paragraph A, B, and/or D.
3. The facts in paragraph C and/or D.

FOURTH THROUGH SIXTH SPECIFICATIONS

Respondent violated New York State Education Law §6530 (9)(d) by reason of his having had disciplinary action taken after a disciplinary action was instituted 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:

4. The facts in paragraphs A and/or D.
5. The facts in paragraph A, B, and/or D.
6. The facts in paragraph C and/or D.

DATED: *Oct. 17*, 2000
Albany, New York


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