



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

March 15, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frederick Downs, M.D.
1345 Exchange Street
Attica, New York 14011

RE: License No. 109864
Effective Date: 3/22/94

Dear Dr. Downs:

Enclosed please find Order #BPMC 94-37 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.

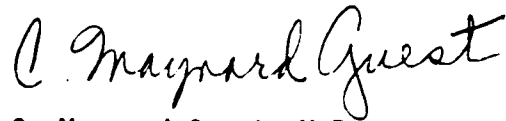
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Tower Building-Room 1245
Albany, New York 12237

Sincerely,

A handwritten signature in cursive script that reads "C. Maynard Guest".

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

Enclosure

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

-----X

IN THE MATTER :

OF :

FREDERICK R. DOWNS, M.D., :

Respondent :

ORDER

BPMC 94-37

-----X

Upon the application of FREDERICK R. DOWNS, M.D.
(Respondent) for Consent Order, which application is made a part
hereof, it is

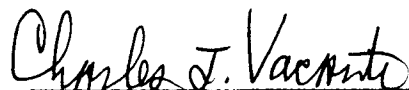
ORDERED, that the application and the provisions thereof
are hereby adopted, and it is further

ORDERED, that this order shall take effect as of the
date of the personal service of this order upon Respondent, upon
receipt by Respondent of this order via certified mail, or seven
days after mailing of this order by certified mail, whichever is
earliest.

SO ORDERED,

DATED:

7 March 1994



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
OF : FOR
FREDERICK R. DOWNS, M.D. : CONSENT
Respondent ORDER
-----X

STATE OF NEW YORK)
COUNTY OF WYOMING) ss.:

FREDERICK R. DOWNS, M.D., RESPONDENT, being duly sworn,
deposes and says:

I was authorized to practice medicine in the State of New York on August 17, 1971, having been issued License No. 109864 by the New York State Education Department.

I am currently registered with the New York State Education Department to practice medicine in the State of New York for the period January 1, 1993 through December 31, 1994 with a current registration address of 408 North Main Street, Warsaw, New York 14569-1015.

I understand that the New York State Board for Professional Medical Conduct has charged me with four Specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit guilt to the first Specification in full satisfaction of the charges against me.

I hereby agree to the following penalty:

1. My license to practice medicine shall be suspended for a period of 3 years.

2. Said suspension shall be stayed.

3. During the three (3) years my medical license is suspended, I will adhere to the terms of probation enumerated in Exhibit B which is attached hereto.

4. I shall be assessed a civil penalty in the amount of One Thousand (\$1,000) Dollars which I will pay to the New York State Health Department no later than (90) days from the effective date of this Consent Order. Such payment shall be made by certified check payable to the New York State Department of Health and directed to the following address:

Fiscal Management Group
Bureau of Accounts Management
Room 1245
Corning Tower Building
Empire State Plaza
Albany, New York 12237-0016

I understand that the failure to pay this fine, as set forth herein, may result in the assessment of interest, penalties or collection fees, in the denial of applications to renew my registration to practice medicine with the New York State

Education Department or in such other penalties or procedures as are authorized under New York State law.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this 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, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

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

Frederick R. Downs M.D.

FREDERICK R. DOWNS, M.D.
RESPONDENT

Sworn to before me this
8 day of *February*, 1974.

Sandra K. Chamberlain
NOTARY PUBLIC *Warren NY*

Sandra K. Chamberlain
Notary Public, State of New York
Qualified in Wyoming County
#4709772
My commission expires 6-30-94

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

-----X
: APPLICATION
IN THE MATTER :
: FOR
OF :
: CONSENT
FREDERICK R. DOWNS, M.D.
Respondent : ORDER
-----X

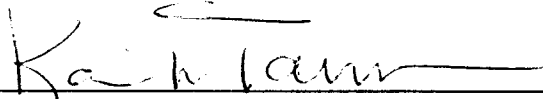
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

Date: 2-8-94 *Frederick R. Downs M.D.*
FREDERICK R. DOWNS, M.D.
RESPONDENT

Date: 2/1/94 *Vincent Tobia*
VINCENT TOBIA
ATTORNEY FOR RESPONDENT

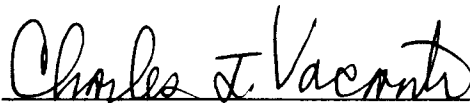
Date: 2/15/94 *Frederick Zimmer*
FREDERICK ZIMMER
ASSISTANT COUNSEL
BUREAU OF PROFESSIONAL
MEDICAL CONDUCT

Date: 11 March 1994



KATHLEEN M. TANNER
DIRECTOR
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Date: 7 March 1994



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
FREDERICK R. DOWNS, M.D., : CHARGES
Respondent :
-----X

FREDERICK R. DOWNS, M.D., the Respondent, was authorized to practice medicine in New York State on August 17, 1971 by the issuance of license number 109864 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 with a current registration address of 400 North Main Street, Warsaw New York 14569.

FACTUAL ALLEGATIONS

A. The Commissioner of Health of the State of New York, by a Stipulation and Order dated October 6, 1991, found Respondent guilty of violating a New York State statute, Article 33 of the Public Health Law, in that Respondent admitted and the Commissioner found violations of Article 33 of the Public Health Law, as follows:

EXHIBIT A

1. Respondent was found to have violated Public Health Law §3304(1), in that, on at least 21 occasions from January 6, 1988 through February 16, 1990, he failed to record prescriptions for controlled substances in the written record of prescribing of 5 different patients; and that on at least 58 occasions from November 25, 1987 through February 9, 1990, he failed to record either the strength, the amount and/or the directions for use of controlled substances in the written record of prescribing of six different patients.

2. The Respondent was found to have violated Public Health Law §3335 (3) in that, on at least 59 occasions from January 6, 1988 through February 16, 1990, he did issue prescriptions calling for a total of 1,160 Fiorinal #3 capsules, 10,200 Darvon 65 mg. capsules, 14,640 APAP w/Codeine 30 mg tablets and 2, 980 Wygesic Tablets, in the names of 5 different patients. These prescriptions were issued before all but 7 days' supplies could be exhausted from previously issued prescriptions, if utilized in accordance with the directions for use.

3. Respondent was found to have violated Public Health Law §3335(2), in that on at least 45 occasions from January 5, 1988 through December 22, 1989, Respondent failed to include patient age, patient address, and/or prescriber registration number on prescriptions written for 5 different patients.

4. Respondent was found to have violated Public Health Law §3350, in that Respondent prescribed controlled substances to

at least 3 patients who were addicts or habitual users of controlled substances.

5. The Department of Health assessed a civil penalty against Respondent of Twenty Eight Thousand (\$28,000) Dollars, Eleven Thousand Two Hundred (\$11,200) Dollars, of which civil penalty was suspended contingent upon Respondent's compliance with terms set forth in the Stipulation and Order. The Department suspended Respondent's use of official New York State triplicate prescriptions for a period of two years.

B. The violations of Article 33 described in paragraphs A.1, A.2, A.3, and A.4 above, would constitute professional misconduct under the following provisions of New York State Law;

1. N.Y. Educ. Law §6530(16) (McKinney Supp. 1993) [a willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine] as to paragraphs A.2 and/or A.4 above; and/or

2. N.Y. Educ. Law §6530(3) (McKinney Supp. 1993) [practicing the profession with negligence on more than one occasion] as to paragraphs A.1, A.2, A.3 and/or A.4 above; and/or

3. N.Y. Educ. Law §6530(4) (McKinney Supp. 1993) [practicing the profession with gross negligence on a particular occasion] as to paragraphs A.2 and/or A.4 above; and/or

4. N.Y. Educ. Law §6530(5) (McKinney Supp. 1993)
[practicing the profession with incompetence on more than one
occasion] as to paragraphs A.1, A.2, A.3 and/or A.4 above;
and/or

5. N.Y. Educ. Law §6530(6) (McKinney Supp. 1993)
[practicing the profession with gross incompetence] as to
paragraphs A.2, and/or A.4 above.

SPECIFICATIONS

FIRST THROUGH FOURTH SPECIFICATIONS

Respondent is charged with professional misconduct under
N.Y. Educ. Law §6530 (9)(c) (McKinney Supp. 1993) by reason of
his having been found guilty of violating state statutes after
resolution of a proceeding by a stipulation, when the violations
would constitute professional misconduct pursuant to section
6530 of the N.Y. Education Law in that, the petitioner charges;

1. The facts in Paragraphs A and A.1 and B and B.2 and/or
B and B.4.
2. The facts in Paragraphs A and A.2 and B and B.1, B and
B.2, B and B.3, B and B.4 and/or B and B.5.
3. The facts in Paragraphs A and A.3 and B and B.2 and/or
B and B.4.
4. The facts in Paragraphs A and A.4 and B and B.1, B and
B.2, B and B.3 and B and B.4 and/or B and B.5.

DATED: Albany, New York
December 16, 1993

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

EXHIBIT "B"

TERMS OF PROBATION

- a. FREDERICK R. DOWNS, M.D., during the period of probation, shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession;
- b. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
- c. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
- d. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
- e. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;

- f. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non renewal of permits or licenses (Tax Law section 171(27); State Finance Law section 18; CPLR section 5001; Executive Law section 32).
- g. Respondent shall bear all costs related to compliance with the Terms of Probation.
- h. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.
- i. Respondent shall comply with all statutes and regulations set forth pursuant to Article 33 of the Public Health Law including but not limited to the following requirements;
 - 1. All prescriptions for controlled substances shall be duly recorded in the medical records of Respondent's patients including the strength, amount and directions for use.
 - 2. Respondent shall not issue additional prescriptions for controlled substances to an ultimate user until that ultimate user will have exhausted all but a seven day supply of the controlled substances provided by any previously issued prescription were that previously issued prescription to be utilized in accordance with directions for use.
 - 3. All required information shall be included by Respondent on prescriptions issued by him including but not limited to patient age and address and prescriber registration number.
- j. Respondent shall not issue prescriptions for controlled substances unless such medication is medically indicated by the condition of the patient.

- k. Respondent shall practice medicine in accordance with acceptable medical standards, carry out his professional duties in accord with those standards practiced by a reasonably prudent physician, and obey all laws, rules and regulations governing the practice of the profession.