



*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

February 22, 1996

***CERTIFIED MAIL - RETURN RECEIPT REQUESTED***

Donald Forester, M.D.  
8 Leewood Circle  
Eastchester, New York 10709

Re: NY License No. 096132

Effective Date: 02/29/96

Dear Dr. Forester:

Enclosed please find Order #BPMC 96-28 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.

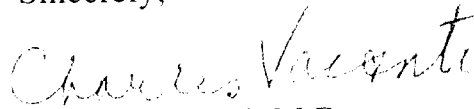
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

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,



Charles Vacanti, M.D.

Chair

Board for Professional Medical Conduct

Enclosure

cc: Anthony Scher, Esq.  
Wood & Scher  
The Harwood Building  
14 Harwood Court  
Scarsdale, New York 10583

Irene M. Koch, Esq.

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

IN THE MATTER  
OF  
DONALD FORESTER, M.D.

CONSENT  
ORDER

BPMC #96-28

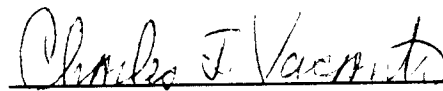
Upon the application of DONALD FORESTER, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, 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: 14 February 1996



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

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

IN THE MATTER  
OF  
DONALD FORESTER, M.D.

APPLICATION  
FOR  
CONSENT ORDER

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

DONALD FORESTER, M.D., being duly sworn, deposes and says:

That on or about August 23, 1963, I was licensed to practice as a physician in the State of New York, having been issued License No. 096132 by the New York State Education Department.

My current address is 8 Leewood Circle, Eastchester, New York 10709, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with five 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 fourth and fifth specifications, and agree not to contest the first, second and third specifications, in full satisfaction of the charges against me. I hereby agree to the penalty that I be subject to a Censure and Reprimand, that I be placed on probation for a period of one year subject to the terms enumerated in Exhibit "B", annexed hereto and made a part hereof, and that I pay a fine in the amount of \$5000.00, to be paid in increments of \$1250.00 on or before each of March 1, 1996, June 1, 1996, September 1, 1996, and December 1, 1996.

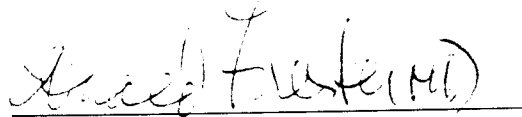
I hereby make this Application to the State Board for Professional Medical

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. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.



DONALD FORESTER, M.D.  
RESPONDENT

Sworn to before me this

27<sup>th</sup> day of January, 1996

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

**STEPHEN KIPP**  
Notary Public, State of New York  
No. 4968779  
Qualified in Westchester County  
Commission Expires November 13, 97

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

IN THE MATTER  
OF  
DONALD FORESTER, M.D.

APPLICATION  
FOR  
CONSENT ORDER

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

DATE: 1/27/96

*Donald Forester*  
DONALD FORESTER, M.D.  
Respondent

DATE: 1/30/96

*Anthony Z. Scher*  
ANTHONY Z. SCHER, ESQ.  
Attorney for Respondent

DATE: \_\_\_\_\_

\_\_\_\_\_  
IRENE M. KOCH  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

DATE: 2/12/96

Anne Saile

ANNE F. SAILE  
Acting Director  
Office of Professional Medical  
Conduct

DATE: 14 February 1996

Charles J. Vacanti

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

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

IN THE MATTER  
OF  
DONALD FORESTER, M.D.

STATEMENT  
OF  
CHARGES

DONALD FORESTER, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 23, 1963, by the issuance of license number 096132 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Between on or about July, 1993 (but in no case later than October, 1993), and on or about June, 1994, Respondent treated Patient A on various occasions for her Chronic Fatigue Syndrome, chronic pain and/or other complaints.
1. Prior to commencing treatment, Respondent failed to perform an adequate physical examination or note such physical, if any.
  2. Prior to commencing treatment, Respondent failed to obtain an adequate medical history or note such history, if any.
  3. Respondent inappropriately prescribed opiate and/or benzodiazepine medications, including, but not limited to Tylenol #3 and Valium, in the treatment of Patient A. In addition:



- a. On several occasions, Respondent falsely wrote prescriptions for Valium in his own name and/or in a variation of his own name, knowing that such drugs were not intended for himself, but rather were intended for Patient A, and he proceeded to provide them to Patient A.
  - b. On several occasions, Respondent falsely wrote prescriptions for Tylenol #3 in his own name, and/or in the name of his ex-wife, knowing that such drugs were not intended for himself and/or his ex-wife, but rather were intended for Patient A, and he proceeded to provide them to Patient A.
4. Respondent inappropriately prescribed and used parenteral opiate medications, including, but not limited to Demerol, in the treatment of Patient A.
5. In or about December, 1993, and/or September, 1994, Respondent falsely submitted Patient A's blood samples for testing under his ex-wife's name, knowing that such samples were from Patient A.
6. Respondent failed to appropriately follow-up on Patient A's complaints of headaches, chronic back pain and leg pain, and other complaints of pain.

7. Throughout the period, Respondent failed to keep a record for Patient A which accurately reflected the treatment she received, including dosages, frequency, and additions/subtractions of medications.
- B. On or about March 20, 1995, the Commissioner of the New York State Department of Health issued a Consent Order finding Respondent had violated Article Thirty-Three of the New York Public Health Law. Specifically, the Commissioner found, and Respondent admitted, that Respondent had violated Section 3397(1)(b) of the Public Health Law in that, during the period from December 2, 1993 through February 9, 1993 [sic.], he wilfully made false statements in five prescriptions by writing on each a name other than that of the ultimate user for which 250 Tylenol #3 tablets had been prescribed. A ten thousand dollar (\$10,000.00) civil penalty was assessed against Respondent, with six thousand dollars (\$6,000.00) of such civil penalty suspended provided Respondent, inter alia, commits no violations of Article 33 of the Public Health Law and/or Part 80 of 10 NYCRR for a period of two years.

### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

#### **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1995) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two

or more of the following:

1. Paragraphs A, A.1, A.2, A.3, A.4, A.6, and/or A.7.

### **SECOND SPECIFICATION**

#### **INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1995) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A, A.1, A.2, A.3, A.4, A.6, and/or A.7.

### **THIRD SPECIFICATION**

#### **FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1995) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

3. Paragraphs A, A.3, A.3.a, A.3.b, A.5, and/or B.

### **FOURTH SPECIFICATION**

#### **FAILING TO MAINTAIN ACCURATE RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 1995) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

4. Paragraphs A, A.1, A.2, A.3, A.4, A.6, and/or A.7.

**FIFTH SPECIFICATION**  
**HAVING BEEN FOUND IN VIOLATION OF**  
**ARTICLE 33 OF THE PUBLIC HEALTH LAW**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(e)(McKinney Supp. 1995 by having been found by the commissioner of health to be in violation of article thirty-three of the public health law as alleged in the facts of the following:

5. Paragraph B.

DATED: August 1995  
New York, New York

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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

EXHIBIT "B"  
TERMS OF PROBATION

1. DONALD FORESTER, M.D., during the period of probation, shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his/her profession;
2. 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 Department of Health, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, and of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. 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, within the first three months of the period of probation;
4. 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;
5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board and shall assume and bear all costs related to compliance with the Terms of Probation;
6. 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 §171(27); State Finance Law §18; CPLR §5001; Executive Law §32);
7. Respondent shall not self-prescribe any medications.
8. Respondent shall not care for, treat, or otherwise practice medicine

on

9. Respondent shall meet with an OPMC Medical Coordinator on a quarterly basis for review of Respondent's patient records (including, but not limited to review of his ordering, administering and inventorying of all controlled substances) and for discussion of Respondent's medical practice to determine whether Respondent's care and treatment comport with generally accepted standards of practice. Respondent will maintain legible and complete medical records which accurately reflect his evaluation and treatment of patients. Any deviation from accepted medical practice identified during the probation period may result in an independent medical review and could lead to additional investigation or charges;
10. -- 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.
11. The period of probation shall be tolled until and unless Respondent engages in the active practice of medicine in the State of New York. Respondent shall, within 30 days of the effective date of this Consent Order, notify the Director of the Office of Professional Medical Conduct, in writing, as to whether or not he/she is so engaged. Furthermore, until completion of the term of probation, he/she shall notify the Director, in writing, prior to any change in that status.