



**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 20, 1996

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Gerald Franklin, M.D.  
20 Teabury Lane  
Amherst, Massachusetts 01002

RE: License No. 105685

Effective Date March 27, 1996

Dear Dr. Franklin:

Enclosed please find Order #BPMC 96-60 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 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  
GERALD S. FRANKLIN, M.D. : BPNC #96-60

-----X

Upon the Application of GERALD S. FRANKLIN, 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: 18 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  
GERALD S. FRANKLIN, M.D. : LICENSE

-----X

STATE OF MASSACHUSETTS)

ss.:

COUNTY OF SUFFOLK)

GERALD S. FRANKLIN, M.D., being duly sworn, deposes and  
says:

On or about March 17, 1970, I was licensed to practice  
medicine as a physician in the State of New York having been  
issued License No. 105685 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 on the grounds that I admit all Factual Allegations in the Statement of Charges, in that I was disciplined by the Massachusetts Board of Registration in Medicine, and that said disciplinary action by the Massachusetts Board constitutes professional misconduct under New York law. I understand that New York's action against me is based solely on the disciplinary action taken by the Massachusetts Board, and that no other conduct has been charged or alleged.

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

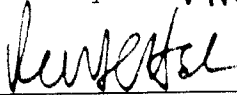
Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

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



GERALD S. FRANKLIN, M.D.  
Respondent

Sworn to before me this  
7<sup>th</sup> day of March, 1996



NOTARY PUBLIC

ROBERT C. HELMAN  
NOTARY PUBLIC

MY COMMISSION EXPIRES MAR. 21, 1997.

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

-----X

IN THE MATTER : APPLICATION TO  
OF : SURRENDER  
GERALD S. FRANKLIN, M.D. : LICENSE

-----X


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

Date: March 7, 1996




GERALD S. FRANKLIN, M.D.  
Respondent

Date: March 7, 1996



LEE J. DUNN, JR., ESQ.  
Attorney for Respondent

Date: March 11, 1996



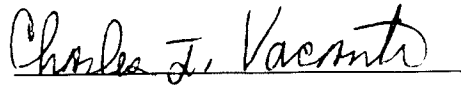
CINDY M. FASCIA  
Associate Counsel  
Bureau of Professional  
Medical Conduct

Date: 3/15, 1996



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

Date: 18 March, 1996



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  
GERALD S. FRANKLIN, M.D. : CHARGES

-----X

GERALD S. FRANKLIN, M.D., the Respondent, was authorized to practice medicine in New York State on March 17, 1970 by the issuance of license number 105685 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

**FACTUAL ALLEGATIONS**

1. Respondent, on or about February 22, 1995, entered into a Consent Order with the Massachusetts Board of Registration in Medicine. Pursuant to said Consent Order, Respondent's license to practice medicine in Massachusetts was revoked.

2. Respondent, in the Consent Order, admitted to various Findings of Fact, including that Respondent, a psychiatrist, engaged in the following conduct:

- Respondent had a therapy session on April 1, 1992 with Patient A, whom Respondent had been treating with medications since July 1991, and whom he had been seeing either weekly or every other week for therapy sessions since September 1991. At the therapy session on April 1, 1992, Respondent kissed Patient A, and thereafter engaged in sexual intercourse



with Patient A in Respondent's office at Holyoke Hospital.

- Respondent, after his first sexual encounter with Patient A on April 1, 1992, told Patient A he could no longer be her therapist. However, Respondent submitted a bill for a final therapy session with Patient A, which session took place on April 3, 1992.
- Respondent continued to prescribe medications, such as Valium, Ativan and Prozac, for Patient A on various occasions after he had told her that he could no longer be her therapist.
- Respondent, after his first sexual encounter with Patient A on April 1, 1992, continued to engage in a sexual relationship with Patient A until July 1993.

3. The Massachusetts Board, in said Consent Order, found Respondent guilty of professional misconduct. The Board concluded, as a matter of law, that Respondent had violated G.L. c. 112 §5(c) and 243 CMR 1.03(5)(a)3, in that he had committed conduct which places into question his ability to practice medicine, including gross misconduct in the practice of medicine. Respondent was also found to have violated 243 CMR 1.03(5)(a)(17), in that he committed malpractice within the meaning of G.L. c. 112, §61; to have violated 243 CMR 1.03(5)(a)18, in that he committed misconduct in the practice of medicine; and to have engaged in conduct which undermines public confidence in the integrity of the medical profession in violation of the standards set forth in Levy v. Board of Registration and Discipline in Medicine, 378 Mass. 519 (1979), and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982).

4. Respondent's conduct upon which the Massachusetts Board's

findings of guilt were based would, if committed in New York state, constitute professional misconduct under the laws of New York state, including: N.Y. Educ. Law §6530(44)(a) [in the practice of psychiatry, having engaged in physical conduct of a sexual nature with a patient], and/or N.Y. Educ. Law §6530(20) [committing conduct in the practice of medicine which evidences moral unfitness to practice medicine]; and/or N.Y. Educ. Law §6530(4) [practicing with gross negligence on a particular occasion]; and/or N.Y. Educ. Law §6530(6) [practicing with gross incompetence]; and/or N.Y. Educ. Law §6530(3) [practicing with negligence on more than one occasion]; and/or N.Y. Educ. Law §6530(5) [practicing with incompetence on more than one occasion].

#### SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ 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 Paragraphs 1 through 4.

DATED: *February 5*, 1996  
Albany, New York

*Peter D. Van Buren*

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