



**New York State Board for Professional Medical Conduct**

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

Dennis P. Whalen  
*Executive Deputy Commissioner of Health*  
Anne F. Saile, Director  
*Office of Professional Medical Conduct*  
William J. Comiskey, Chief Counsel  
*Bureau of Professional Medical Conduct*

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*Chair*  
Denise M. Bolan, R.P.A.  
*Vice Chair*  
Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

December 28, 1998

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Andrew G. Gunther, M.D.  
451 Hoosick Street  
Troy, New York 12180

RE: License No. 169393

Dear Dr. Gunther:

Enclosed please find Order #BPMC 98-316 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 28, 1998.**

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: E. Stewart Jones, Jr., Esq.  
28 Second Street  
Troy, New York 12180

Peter Van Buren, Esq.

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

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IN THE MATTER : SURRENDER  
OF : ORDER  
ANDREW G. GUNTHER, M.D. : BMC # 98-316

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ANDREW G. GUNTHER, M.D., says:

On or about February 25, 1987, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 169393 by the New York State Education Department. My current address is 451 Hoosick Street, Troy, New York 12180.

I am 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 three 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.

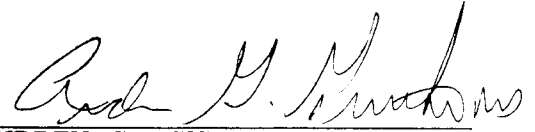
I admit guilt to the allegations and the first and third specifications set forth in the Statement of Charges (Exhibit A).

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 State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. I agree that this Order shall be effective 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 earliest.

I am making this agreement of my own free will and accord

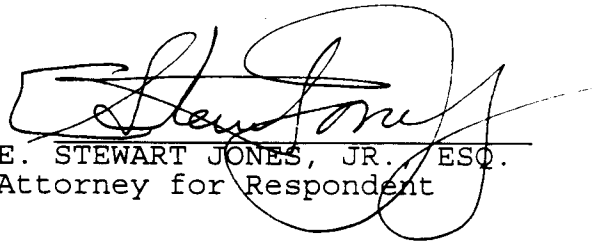
and not under duress, compulsion, or restraint of any kind or manner.



ANDREW G. GUNTHER, M.D.  
Respondent


AGREED TO:

Date: 12/14, 1998



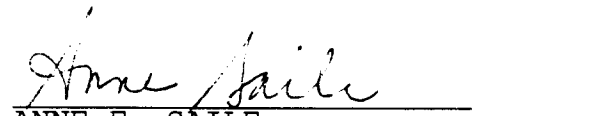
E. STEWART JONES, JR., ESQ.  
Attorney for Respondent

Date: December 21, 1998



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

Date: Dec 22, 1998



ANNE F. SAILE  
Director, Office of  
Professional Medical Conduct

ORDER

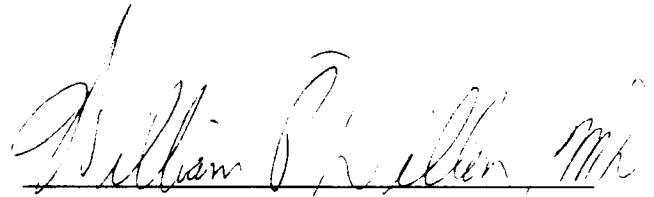
Upon the proposed agreement of ANDREW G. GUNTHER, M.D., to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

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

ORDERED, that the name of 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 of this Order to Respondent at the address set forth in this agreement or to Respondent's attorney, or transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 12/23/98



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

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

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IN THE MATTER : STATEMENT  
OF : OF  
ANDREW G. GUNTHER, M.D. : CHARGES

-----X

ANDREW G. GUNTHER, M.D., the Respondent, was authorized to practice medicine in New York State on February 25, 1987, by the issuance of license number 169393 by the New York State Education Department. Respondent is currently registered to practice medicine.

**FACTUAL ALLEGATIONS**

A. Respondent, since approximately October of 1995, has written prescriptions for Valium and Lortab in the names of various individuals who were not his patients and or diverted said medications from other individuals.

1. Respondent wrote and/or renewed prescriptions for Valium or Lortab, or some portion thereof, in the name of patients and/or individuals other than himself when in fact the prescriptions were not given to the patient and/or to the individual named on the prescription form and/or were filled by the individuals with the medications being given to the Respondent for his own use and/or the prescriptions were filled by Respondent

for his own use.

SPECIFICATIONS  
FIRST SPECIFICATION  
FRAUDULENT PRACTICE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(2) by reason of his having practiced the profession fraudulently, in that Petitioner charges:

1. The facts in paragraphs A and A.1.

SECOND SPECIFICATION  
MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(20) by reason of his having engaged in conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

2. The facts in paragraphs A and A.1.

THIRD SPECIFICATION  
FILING A FALSE REPORT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(21) by reason of his having willfully made or filed a false report, in that Petitioner charges:

3. The facts in paragraphs A and A.1.

DATED: *December 7*, 1998  
Albany, New York



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