



**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

C. Maynard Guest, M.D.  
Executive Secretary

May 30, 1995

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

James Ralph Benner, M.D.  
P.O. Box 1232  
Carmel, New York 10512-8232

RE: License No. 137487

Dear Dr. Benner:

EFFECTIVE DATE: 06/06/95

Enclosed please find Order #BPMC 95-111 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,

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

Enclosure

cc: James G. Eberz, Esq.  
Meiselman, Farber, Packman & Eberz, P.C.  
118 North Bedford Road  
P.O. Box 151  
Mount Kisco, New York 10549

Ann Hroncich, Esq.

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

IN THE MATTER  
OF  
JAMES RALPH BENNER, M.D.

SURRENDER  
ORDER  
BPMC #95-111

Upon the Application of JAMES RALPH BENNER, M.D. (Respondent) to Surrender his/her license as a physician in the State of New York, which application is made a part hereof, it is

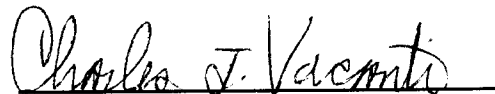
ORDERED, that the application and the provisions thereof are hereby adopted; it is further

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, but no earlier than June 1, 1995.

SO ORDERED.

DATED: 23 May 1995



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  
JAMES RALPH BENNER, M.D.

APPLICATION TO  
SURRENDER  
LICENSE

STATE OF NEW YORK )

ss.:

COUNTY OF )

JAMES RALPH BENNER, M.D., being duly sworn, deposes and says:

On or about March 30, 1995, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 137487 by the New York State Education Department.

My current address is P.O. Box 1232, Carmel, New York 10512-8232 , and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with twenty-eight 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 permission to surrender my license as a physician in the State of New York on the grounds that I admit guilt to the following specifications of the statement of charges: the First specification, Practicing With Negligence On More Than One Occasion, as set forth in factual allegations A and A1-4, and B and B1-6; the Second and Third specifications, Practicing The Profession With Gross Negligence, as set forth in factual allegations A and A1-4, and B and B1-6; and the Eleventh and Twelfth specifications, Practicing The Profession Fraudulently, as set forth in factual

allegations A and A3, and B and B4 and 6, in full satisfaction of the Statement of Charges.

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.

*James Ralph Benner, M.D.*  
JAMES RALPH BENNER, M.D.  
Respondent

Sworn to before me this  
9<sup>th</sup> day of May, 1995

*Yvonne P. LaComb*  
NOTARY PUBLIC

YVONNE P. LaCOMB  
Notary Public, State of New York  
Qualified in Dutchess County  
Commission Expires 10/31/95

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

IN THE MATTER  
OF  
JAMES RALPH BENNER, M.D.

APPLICATION TO  
SURRENDER  
LICENSE

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

Date: MAY 9, 1995

James Ralph Benner, M.D.  
JAMES RALPH BENNER, M.D.  
Respondent

Date: MAY 9, 1995

James G. Eberz  
JAMES G. EBERZ, Esq.  
Attorney for Respondent

Date: May 10, 1995

Ann Hroncich  
ANN HRONCICH  
Associate Counsel  
Bureau of Professional  
Medical Conduct

Date: May 19, 1995

Kathleen M. Tanner  
for KATHLEEN M. TANNER  
Director  
Office of Professional Medical Conduct

Date: 23 May, 1995

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 : STATEMENT  
OF : OF  
JAMES RALPH BENNER, M.D. : CHARGES

-----X

JAMES RALPH BENNER, M.D., the Respondent, was authorized to practice medicine in New York State on March 30, 1979, by the issuance of license number 137487 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine in New York State.

**FACTUAL ALLEGATIONS**

- A. On or about December 4, 1992 and December 16, 1992, Respondent issued prescriptions for Tylenol with Codeine #4 and Lortab 7.5 to an investigator posing as Patient A at Respondent's office in Brewster, New York. (The identities of Patient A and the other patients are disclosed in the attached appendix.)
1. On both occasions, Respondent failed to perform adequate physical examinations.
  2. Respondent inappropriately prescribed the controlled substances and other drugs to this patient.
  3. The controlled substances and other drugs were prescribed not in the good faith practice of medicine

"EXHIBIT A"

and not for a proper medical purpose.

4. Respondent failed to maintain a record which accurately reflects the care and treatment rendered to this patient.

B. On or about December 16, 1992, Respondent issued a prescription for Didrex in the name of Patient B, an individual who was not present at the time, to an investigator posing as Patient A at Respondent's office in Brewster, New York.

1. Respondent failed to obtain an adequate medical history.
2. Respondent failed to perform an adequate physical examination.
3. Respondent inappropriately prescribed the controlled substance Didrex to this patient.
4. The controlled substance was prescribed not in the good faith practice of medicine and not for a proper medical purpose.
5. Respondent failed to maintain a record which accurately reflects the care and treatment rendered to this patient.
6. Respondent knowingly and intentionally falsely created a record for this "patient" whom he never met.

C. From approximately December 1986 to July 1993, Respondent treated Patient C at his offices in Patterson, Brewster, and Carmel, New York.



1. Throughout the period, Respondent failed to obtain an adequate medical history, or note such history, if any.
  2. From approximately August 1989 to July 1993, Respondent inappropriately attributed Patient C's liver disease to Epstein-Barr Virus and not to alcoholism.
  3. Throughout the period, Respondent either concealed Patient C's history of alcoholism or failed to report it to other physicians when he referred her to them for consultation or treatment.
- D. From approximately November 1984 to August 1994, Respondent treated Patient D at his offices in Patterson, Brewster, and Carmel, New York.
1. Throughout the period, Respondent failed to perform adequate physical examinations, or note such examinations, if any. Respondent also failed to take necessary laboratory tests.
  2. Respondent inappropriately prescribed controlled substances and other drugs such as Didrex, Fastin, Tenuate, Plegine, Bontril, Adipex, Pondimin and Phentermine to Patient D.
  3. The controlled substances and other drugs were prescribed not in the good faith practice of medicine and not for a proper medical purpose.
- E. From approximately August 1986 to August 1994, Respondent treated Patient E at his offices in Patterson, Brewster, and Carmel, New York.

1. On Patient E's first visit on or about August 26, 1986, Respondent failed to obtain an adequate medical history, or note such history, if any.
2. Throughout the period, Respondent failed to perform adequate physical examinations, or note such examinations, if any. Respondent also failed to take necessary laboratory tests.
3. Respondent inappropriately prescribed controlled substances such as Didrex to Patient E.
4. The controlled substances were prescribed not in the good faith practice of medicine and not for a proper medical purpose.

F. From approximately February 1987 to August 1994, Respondent treated Patient F at his offices in Patterson, Brewster, and Carmel, New York.

1. Throughout the period, Respondent failed to obtain an adequate medical history, or note such history, if any.
2. Throughout the period, Respondent failed to perform adequate physical examinations, or note such examinations, if any. Respondent also failed to take necessary laboratory tests.
3. Respondent inappropriately prescribed controlled substances and other drugs such as Fiorinal with Codeine, Phenergan with Codeine, Tylenol with Codeine, Empirin with Codeine, Esgic, and Hycodan to Patient F.
4. The controlled substances and other drugs were prescribed not in the good faith practice of medicine

and not for a proper medical purpose.

- G. From approximately September 1986 to September 1994, Respondent treated Patient G at his offices in Patterson, Brewster, and Carmel, New York.
1. On Patient G's first visit on or about September 4, 1986, Respondent failed to obtain an adequate medical history, or note such history, if any.
  2. Throughout the period, Respondent failed to perform adequate physical examinations, or note such examinations, if any.
  3. During the period including but not limited to October 1991 to February 1992, Respondent inappropriately prescribed controlled substances and other drugs such as Fiorinal, Fiorinal with Codeine, Valium, Dalmane, and Tylenol with Codeine, to Patient G.
  4. The controlled substances and other drugs were prescribed not in the good faith practice of medicine and not for a proper medical purpose.
- H. From approximately March 1993 to August 1994, Respondent treated Patient H at his offices in Brewster and Carmel, New York.
1. Throughout the period, Respondent failed to perform adequate physical examinations, or note such examinations, if any.
  2. Respondent inappropriately prescribed controlled substances such as Didrex to Patient H.

3. The controlled substances and other drugs were prescribed not in the good faith practice of medicine, and not for a proper medical purpose.
- I. From approximately December 1987 to August 1994, Respondent treated Patient I at his offices in Patterson, Brewster, and Carmel, New York.
1. Throughout the period, Respondent failed to obtain an adequate medical history, or note such history, if any.
  2. Throughout the period, Respondent failed to perform adequate physical examinations, or note such examinations, if any.
  3. Respondent inappropriately prescribed controlled substances such as Didrex to Patient I.
  4. The controlled substances were prescribed not in the good faith practice of medicine and not for a proper medical purpose.

#### SPECIFICATION OF CHARGES

##### FIRST SPECIFICATION

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

Respondent is charged with practicing the profession with negligence on more than one occasion under N.Y. Educ. Law Section 6530(3) (McKinney Supp. 1995), in that Petitioner charges Respondent with having committed at least two of the following:

1. The facts contained in paragraphs A and A1, 2, 3, and/or 4, B and B1, 2, 3, 4, 5, and/or 6, C and C1, 2,

and/or 3, D and D1, 2, and/or 3, E and E1, 2, 3, and/or 4, F and F1, 2, 3, and/or 4, G and G1, 2, 3, and/or 4, H and H1, 2, and/or 3, I and I1, 2, 3, and/or 4.

**SECOND THROUGH TENTH SPECIFICATIONS**

**PRACTICING THE PROFESSION WITH GROSS NEGLIGENCE**

Respondent is charged with practicing the profession with gross negligence under N.Y. Educ. Law Section 6530(4) (McKinney Supp. 1995), in that Petitioner charges Respondent with having committed the following:

2. The facts contained in paragraphs A and A1, 2, 3, and/or 4.
3. The facts contained in paragraphs B and B1, 2, 3, 4, 5, and/or 6.
4. The facts contained in paragraphs C and C1, 2, and/or 3.
5. The facts contained in paragraphs D and D1, 2, and/or 3.
6. The facts contained in paragraphs E and E1, 2, 3, and/or 4.
7. The facts contained in paragraphs F and F1, 2, 3, and/or 4.
8. The facts contained in paragraphs G and G1, 2, 3, and/or 4.
9. The facts contained in paragraphs H and H1, 2, and/or 3.
10. The facts contained in paragraphs I and I1, 2, 3, and/or 4.

**ELEVENTH THROUGH NINETEENTH SPECIFICATIONS**

**PRACTICING THE PROFESSION FRAUDULENTLY**

Respondent is charged with practicing the profession fraudulently under N.Y. Educ. Law Section 6530(2) (McKinney Supp. 1995), in that Petitioner charges:

11. The facts contained in paragraph A and A3.
12. The facts contained in paragraph B and B4 and B6.
13. The facts contained in paragraphs C and C3.
14. The facts contained in paragraphs D and D3.
15. The facts contained in paragraphs E and E4.
16. The facts contained in paragraphs F and F4.
17. The facts contained in paragraphs G and G4.
18. The facts contained in paragraphs H and H3.
19. The facts contained in paragraphs I and I4.

**TWENTIETH THROUGH TWENTY-EIGHTH SPECIFICATIONS**


**FAILING TO MAINTAIN ACCURATE RECORDS**

Respondent is charged with unprofessional conduct under N.Y. Educ. Law Section 6530(32) (McKinney Supp. 1995), in that he failed to maintain a record for each patient which accurately reflects his evaluation and treatment of the patient, in that Petitioner charges:

20. The facts contained in paragraphs A and A4.
21. The facts contained in paragraphs B and B5.
22. The facts contained in paragraphs C and C1.
23. The facts contained in paragraphs D and D1 and/or 2.
24. The facts contained in paragraphs E and E1, 2, and/or 3.

25. The facts contained in paragraphs F and F1, 2, and/or 3.
26. The facts contained in paragraphs G and G1, 2, and/or 3.
27. The facts contained in paragraphs H and H1, and/or 2.
28. The facts contained in paragraphs I and I1, 2, and/or 3.

DATED: April 19, 1995  
New York, New York

  
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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct