



**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

March 13, 1995

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Valery Berger, M.D.  
6625 Bay Parkway  
Brooklyn, New York 11204

RE: License No. 152697

Dear Dr. Berger:

Effective Date: 03/20/95

Enclosed please find Order #BPMC 95-57 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.

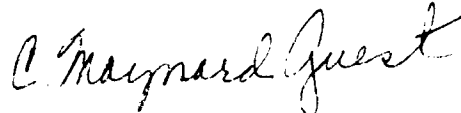
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

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

cc: Susan G. LaRossa, Esq.  
LaRossa, Mitchell & Ross  
41 Madison Avenue  
Thirty Fourth Floor  
New York, New York 10010

Silvia Finkelstein, Esq.

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

IN THE MATTER  
OF  
VALERY A. BERGER, M.D.

CONSENT

ORDER

BPMC #95-57


Upon the application of VALERY A. BERGER, 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: 10 March 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  
VALERY A. BERGER, M.D.

APPLICATION  
FOR  
CONSENT ORDER

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

VALERY A. BERGER, M.D., being duly sworn, deposes and says:

That on or about December 10, 1982, I was licensed to practice as a physician in the State of New York, having been issued License No. 152697 by the New York State Education Department.

My current address is 6625 Bay Parkway, Brooklyn, New York 11204, and I will advise the Director of the Office of Professional Medical Conduct of any future change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with two 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 and Second Specifications, in full satisfaction of the charges against me. I hereby agree to the penalty one year suspension, stayed, two years probation as set forth in the attached Terms of Probation ("Exhibit B"), one hundred hours of public service in a manner and at a time and place approved by the Director of the Office of Professional Medical Conduct, and a fine in the sum of Two Thousand Five Hundred (\$2,500.00) Dollars, payable as set forth in the Terms of Probation.

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.



VALERY A. BERGER, M.D.  
RESPONDENT

Sworn to before me this

28<sup>th</sup> day of February, 1995



NOTARY PUBLIC

**EVAN GLASSMAN**  
Notary Public, State of New York  
No. 02GL5034122  
Qualified in New York County  
Commission Expires Oct. 3, 1996

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

IN THE MATTER  
OF  
VALERY A. BERGER, M.D.

APPLICATION  
FOR  
CONSENT ORDER

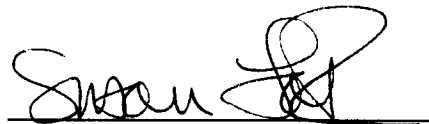
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 2.28.95



VALERY A. BERGER, M.D.  
Respondent

DATE: February 22, 1995



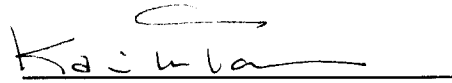
SUSAN G. LaROSSA, ESQ.  
Attorney for Respondent

DATE: March 3, 1995



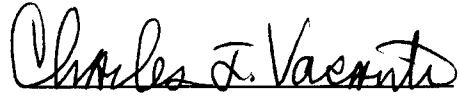
SILVIA P. FINKELSTEIN  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: March 9, 1995



KATHLEEN M. TANNER  
Director,  
Office of Professional Medical  
Conduct

DATE: 10 March 1995



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  
VALERY A. BERGER, M.D. : CHARGES  
-----X

VALERY A. BERGER, M.D., the Respondent, was authorized to practice medicine in New York State on December 10, 1982, by the issuance of license number 152697 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 registration address of 6625 Bay Parkway, Brooklyn, New York 11204.

FIRST SPECIFICATION

HAVING BEEN CONVICTED OF  
AN ACT CONSTITUTING A CRIME  
UNDER NEW YORK STATE LAW

1. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(a)(i) (McKinney Supp. 1994) in that he has been found guilty of committing an act constituting a crime under New York State law, specifically:

On or about June 29, 1993, the Respondent was convicted after a plea of guilty in the Supreme Court of the State of New York, County of Kings, of Insurance Fraud in the Fifth Degree, a Class A misdemeanor, in violation of Section 176.10 of the Penal Law, in that on or about and between August 27, 1991 and January 8, 1992, Respondent, knowingly and with intent to defraud offered and presented to Aetna Casualty and Surety



Company a medical bill Dated August 27, 1992, related to a patient in support of a claim for payment, which bill he knew to contain materially false information.

Respondent was sentenced to one year conditional discharge.

### SECOND SPECIFICATION

#### HAVING BEEN CONVICTED OF AN ACT CONSTITUTING A CRIME UNDER NEW YORK STATE LAW

2. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(a)(i) (McKinney Supp. 1994) in that he has been found guilty of committing an act constituting a crime under New York State law, specifically:

On or about June 2, 1993, the Respondent was convicted after plea of guilty in the Supreme Court of the State of New York, County of Kings, of Conspiracy in the Fifth Degree, a Class A misdemeanor, in violation of Section 105.05 of the Penal Law, in that the Respondent agreed with two other individuals to provide signed durable medical equipment order forms and completed physician certifications of the need for medical equipment for patients he had never seen. Respondent engaged in this conduct from on or about August 1, 1990 to on or about March 13, 1991. The forms and certifications provided by Respondent were submitted by the other individuals involved to the State Medicaid Program. Respondent was paid for providing the order forms and physician certifications.

On or about November 4, 1993, Respondent was sentenced to a conditional discharge of one year and restitution in the sum of Twelve Thousand Four Hundred Forty-eight (\$12,448) Dollars, which Respondent has paid.

DATED: New York, New York  
November 9, 1994

A handwritten signature in black ink, appearing to read "C. Stern Hyman", written over a horizontal line.

CHRIS STERN HYMAN  
Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### TERMS OF PROBATION

1. VALERY A. BERGER, 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. That 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, 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, no later than 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;
6. Respondent shall pay One Thousand (\$1,000.00) Dollars of the fine imposed within thirty (30) days from the date of the Order. The balance of the fine imposed shall be paid in full within six (6) months from the date of the Order.
7. 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).
8. 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.