

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

August 15, 1990

James F. Cunningham, Physician
1 Elm Street
Schenectady, N.Y. 12304

Re: License No. 045575

Dear Dr. Cunningham:

Enclosed please find Commissioner's Order No. 11092. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations
By:

MOIRA A. DORAN
Supervisor

DJK/MAH/er
Enclosures

CERTIFIED MAIL- RRR

cc: Alfred L. Goldberger, Esq.
215 State Street
Schenectady, N.Y. 12305

RECEIVED
AUG 20 1990
Office of Professional Discipline
Medical Council

JAMES F. CUNNINGHAM, M.D.

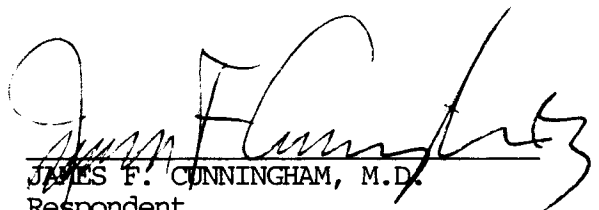
I hereby make this application to the Board of Regents and request that it be granted.

I understand that, in the event that the application is not granted by the Board of Regents, 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 of Regents shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

I agree that, in the event the Board of Regents grants my application, an order of the Commissioner of Education may be issued striking my name from the roster of physicians in the State of New York without further notice to me.

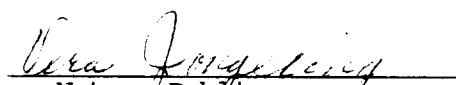
I further agree that the order of the Commissioner shall include a provision that I shall not apply for the restoration of my license until at least one (1) year has elapsed from the effective date of the service of such order. I understand that such application is not automatically granted but may be granted or denied.

No promises of any kind were made 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 F. CUNNINGHAM, M.D.
Respondent

Sworn to before me this
day of November, 1989



Notary Public

VERA JONGELING
Notary Public, State of New York
Saratoga County - 4818507

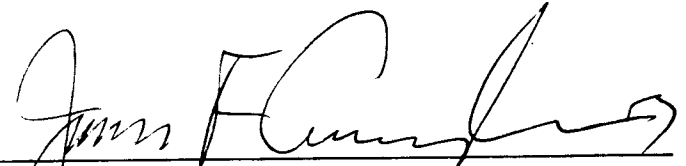
Commission Expires Jan. 31, 1991

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

IN THE MATTER : APPLICATION TO
OF : SURRENDER
JAMES F. CUNNINGHAM, M.D. : LICENSE

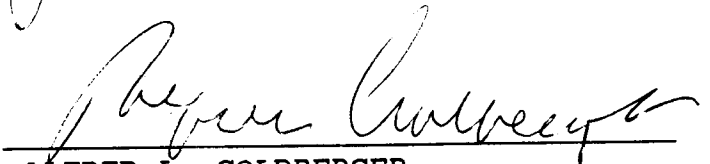
The undersigned agree to the application in this matter.

Date: _____, 1989



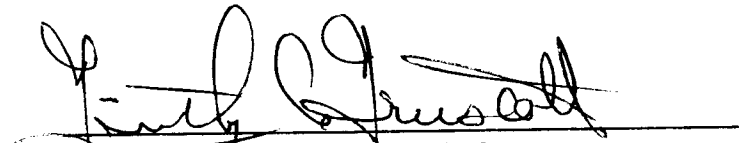
JAMES F. CUNNINGHAM, M.D.
Respondent

Date: _____, 1989



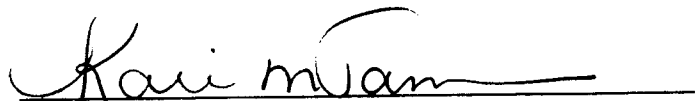
ALFRED L. GOLDBERGER
Attorney for Respondent

Date: 5/16, 1989⁰⁰



MEMBER, State Board for
Professional Medical Conduct


Date: 5/14, 1989⁰⁰



KATHLEEN M. TANNER
Director, Office of Professional
Medical Conduct

JAMES F. CUNNINGHAM, M.D.

The undersigned has reviewed and agrees to the attached application to surrender license.

Date: May 14, 1989 ⁹⁰

DAVID AXELROD, M.D.
Commissioner of Health

The undersigned, a member of the Board of Regents who has been designated by the Chairman of the Regents Committee on Professional Discipline to review this application to surrender license, has reviewed the attached application to surrender license and recommends to the Board of Regents that the application be granted.

Date: July 10, 1989 ¹⁹⁹⁰

MEMBER OF THE BOARD OF REGENTS

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

-----X
IN THE MATTER : STATEMENT
OF : OF
JAMES F. CUNNINGHAM, M.D. : CHARGES
-----X

The State Board for Professional Medical Conduct, upon information and belief, charges and alleges as follows:

1. JAMES F. CUNNINGHAM, M.D., the Respondent, was authorized to practice medicine in New York State on February 6, 1947 by the issuance of license number 045575 by the New York State Education Department.
2. The Respondent is not currently registered with the New York State Education Department to practice medicine.
3. The Respondent herein is charged with professional misconduct within the purview of N.Y. Educ. Law §6509 (McKinney 1985 and Supp. 1989) as set forth in the attached Specification.

EXHIBIT A

FIRST SPECIFICATION

4. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(5)(c) in that he has been found by the Commissioner of Health to be in violation of Article 33 of the N.Y. Pub. Health Law, specifically:

On or about August 30, 1989 the Commissioner of Health issued Stipulation and Order CS-89-60 finding that Respondent failed to regulate the quantity of a controlled substance, Tylenol No. 3, which he prescribed for a patient in violation of N.Y. Pub. Health Law 3335(3); failed to execute official New York State Prescriptions and failed to maintain written patient records while dispensing 1,575 units of Methylphenidate, a Schedule II controlled substance, to a patient in violation of N.Y. Pub. Health Law §3331(6) and 10 NYCRR 80.62(b); failed to execute official New York State prescriptions and failed to maintain patient records while dispensing 300 Pentobarbital capsules, a Schedule II controlled substance, to a patient in violation of N.Y. Pub. Health Law §331(6) and 10 NYCRR 80.62(b); and failed to maintain adequate written patient records for his prescribing Tylenol No. 3 to a patient in violation of 10 NYCRR 80.62(b).

DATED: Albany, New York

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

**ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK**

JAMES F. CUNNINGHAM

CALENDAR NO. 11092



The University of the State of New York

IN THE MATTER

OF

JAMES F. CUNNINGHAM
(Physician)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 11092**

Upon the application of JAMES F. CUNNINGHAM, under Calendar No. 11092, which application is made a part hereof, and in accordance with the provisions of Title VIII of the Education Law, **it was**

VOTED (JULY 27, 1990): That the application of JAMES F. CUNNINGHAM, respondent, for permission to surrender respondent's license to practice as a physician in the State of New York be granted; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the provisions of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof as well as the application and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that respondent may not apply for the restoration of said license until at least one (1) year has elapsed from the effective date of the service of this order, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

JAMES F. CUNNINGHAM (11092)

IN WITNESS WHEREOF, I, Thomas Sobol,
Commissioner of Education of the State of
New York, for and on behalf of the State
Education Department and the Board of
Regents, do hereunto set my hand and affix
the seal of the State Education Department,
at the City of Albany, this 6th day of
August, 1990.

Thomas Sobol

Commissioner of Education