



**Board for Professional Medical Conduct**

Cor Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

C. Maynard Guest, M.D.  
Executive Secretary

May 14, 1993

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Guy Denis, M.D.

Redacted Address

RE: License No. 143323

Dear Dr. Denis:

Enclosed please find Order #BPMC 93-72 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 12237-0614

Sincerely,

Redacted Signature

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

**Enclosure**

cc: Francis J. Offermann, Jr., Esq.  
Offermann, Mahoney, Cassano, Pigott,  
Greco and Whalen  
1776 Statler Towers  
Buffalo, New York 14202-3090

~~David [Redacted], Esq.~~

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

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IN THE MATTER :  
OF : ORDER  
GUY DENIS, M.D. : BPMC 93-72

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Upon the Application of GUY DENIS, M.D. (Respondent) 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 Respondent shall not apply for the restoration of Respondent's license until at least one year has elapsed from the effective date 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 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,

Redacted Signature

DATED: 10 May 1993

\_\_\_\_\_  
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

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IN THE MATTER :  
OF : APPLICATION TO  
GUY DENIS, M.D. : SURRENDER  
: LICENSE  
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STATE OF NEW YORK )  
COUNTY OF ERIE ) ss.:

GUY DENIS, M.D., being duly sworn, deposes and says:

I was licensed to practice as a physician in the State of New York on August 22, 1980 having been issued license number 143323 by the New York State Education Department.

I am currently registered to practice as a physician in the State of New York for the period January 1, 1993 through December 31, 1994, with the registered address of 6666 East Quaker Street, Orchard Park, New York 14127.

I understand that I have been charged with twenty-seven 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 fifteenth specification of professional misconduct as it applies to the Factual Allegations regarding Patients A, B, C, D, E, F and G set forth in the charges, except for the Factual Allegations in A.3 and D.2, in full satisfaction of all of the specifications.

I hereby make this application to the State Board for Professional Medical Conduct and request that it be granted.

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.

Redacted Signature

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GUY DENIS, M.D.  
Respondent

Sworn to before me this  
6<sup>th</sup> day of MAY, 1993

Redacted Signature

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NOTARY PUBLIC - STATE OF N.Y.  
MY COMM. EXPIRES 4/30/94

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

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IN THE MATTER  
OF  
GUY DENIS, M.D.  
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: APPLICATION  
:  
: SURRENDER  
:  
: LICENSE  
:

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

Date: May 6, 1993

Redacted Signature

\_\_\_\_\_  
GUY DENIS, M.D.  
Respondent

Date: May 6, 1993

Redacted Signature

\_\_\_\_\_  
FRANCIS J. OFFERMANN, JR., ESQ.  
Attorney for Respondent

Date: May 6, 1993

Redacted Signature

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KEVIN P. DONOVAN  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

Date: May 13, 1993

Redacted Signature

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KATHLEEN M. TANNER  
Director, Office of Professional  
Medical Conduct

Date: 10 May 1993

Redacted Signature

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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

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IN THE MATTER : STATEMENT  
OF : OF  
GUY DENIS, M.D. : CHARGES

-----X

GUY DENIS, M.D., the Respondent, was authorized to practice medicine in New York State on August 22, 1980, by the issuance of license number 143323 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department for the period January 1, 1993, through December 31, 1994, with the registered address of 6666 East Quaker Street, Orchard Park, New York 14127.

FACTUAL ALLEGATIONS

A. Patient A (patient names are listed in the Appendix), a female born August 12, 1915, was provided medical care by Respondent at one of his offices and at Lake Shore Hospital, 845 Routes 5 and 20, Irving, New York 14081.

1. Respondent performed a right exploratory tympanotomy on Patient A on November 16, 1989.
  - a. The operation was not appropriate considering the age of the patient, the patient's poor health history, the ear he operated on was the patient's better ear, and in the face of conflicting audiograms.



- b. The operation was without adequate medical indication.
  - c. Respondent did not recognize that his manipulations in the middle ear caused the oval window fistula.
2. On or about October 5, 1989, Respondent recommended septoplasty for the patient without adequate medical indication.
3. Respondent intentionally and falsely wrote in a letter to the Medical Society of the County of Erie dated March 28, 1990, that the surgery he performed on the patient will not cause any severe hearing loss or worsening of hearing, that there was no evidence of severe loss of hearing from his surgery on this patient, and that the patient was able to hear as she was able to in the past if not better.

B. Patient B, a female born July 31, 1948, was provided medical care by Respondent at one of his offices.

1. In or about June and July 1990, Respondent recommended performance of an ampullary nerve section, exploratory tympanotomy, and possible tympanoplasty.
  - a. Respondent recommended performance of an ampullary nerve section without an adequate trial of non-surgical therapy.
  - b. Respondent had neither the qualifications nor hospital privileges to perform an ampullary nerve section.
  - c. Respondent intentionally misrepresented to Patient B his skill and experience to perform an ampullary nerve section.

C. Patient C, a female born October 27, 1952, was provided medical care by Respondent at one of his offices.

1. Respondent recommended a left exploratory tympanotomy and tympanoplasty to be performed on or about September 20, 1990, without adequate medical indication.
2. Respondent failed to appropriately specify pre-operatively the type of tympanoplasty he intended to perform on Patient C.

D. Patient D, a female born June 23, 1951, was provided medical care by Respondent at one of his offices and at Lake Shore Hospital.

1. Respondent performed an operation on Patient D's left ear on November 15, 1990, at Lake Shore Hospital.
  - a. Respondent failed to appropriately consider otosclerosis as a cause of hearing loss in Patient D's left ear.
  - b. Respondent made a pre-operative diagnosis of perilymph or oval window fistula for Patient D without adequate medical indication.
  - c. Respondent inappropriately failed to perform a stapedectomy.
  - d. Respondent did not recognize that his manipulations in the middle ear caused the oval window fistula.
2. On or about December 6, 1990, and following the surgery of November 15, 1990, Respondent intentionally and falsely reported in his record and/or to the patient that there was marked improvement of the patient's hearing, of bone conduction, and of air conduction.
3. In or around December 1990, Respondent recommended that septoplasty and submucous resection of inferior turbinates be performed on Patient D without adequate medical indication and too soon following the surgery of November 15, 1990.

E. Patient E, a female born December 29, 1975, was provided medical care by Respondent at one of his offices and at Lake Shore Hospital.

1. Respondent's performance at Lake Shore Hospital of tympanoplasty on Patient E's left ear on September 13, 1988, was inappropriate because it was too soon after an ear infection.
2. Respondent inappropriately recommended that a myringoplasty or revised left tympanoplasty be performed on the patient by Easter vacation, early summer or September 1989.

F. Patient F, a female born January 4, 1919, was provided medical care by Respondent at one of his offices.

1. In or around July and August 1987, Respondent inappropriately failed to perform tuning fork tests on Patient F.
2. On or about August 3, 1987, Respondent inappropriately recommended performance of an exploratory tympanotomy on the patient's left ear when he had two audiograms that conflicted and that indicated that the patient had sensorineural hearing loss not correctable by this surgery.

G. Patient G, a male born July 19, 1914, was provided medical care by Respondent at one of his offices.

1. On January 7, 1991, Respondent recommended an exploratory tympanotomy and possible tympanoplasty and tubes for Patient G's left ear.
  - a. Respondent recommended surgery on the patient's left ear when an audiogram dated December 10, 1990, demonstrated speech discrimination of only 8%.
  - b. Respondent failed to appropriately specify pre-operatively the type of tympanoplasty he intended to perform on the patient.
  - c. Respondent proposed surgery on Patient G without first obtaining records or information from the patient's prior treating otolaryngologist.

H. By letter dated September 22, 1992, to Respondent and his lawyer, the Office of Professional Medical Conduct requested that Respondent produce his complete medical records of Patients H through N, who Respondent treated between in or about 1987 through 1992.

1. The letter informed Respondent that there was an inquiry into possible professional misconduct by him, stated that OPMC was authorized to obtain records pursuant to N.Y. Public Health Law §230(10)(1), and that N.Y. Educ. Law §6530(28) defined professional misconduct as failing

to make available relevant records with respect to an inquiry.

2. As of the date of this Statement of Charges, Respondent has not produced the requested medical records for Patients H through N.

I. By order dated July 26, 1991, in calendar number 11592, Respondent was found guilty of negligence on more than one occasion and incompetence on more than one occasion by the New York State Education Department and had his license suspended for five years, with the suspension stayed conditioned on Respondent's compliance for five years with terms of probation; one of the probation terms required his "compliance with the standards of conduct prescribed by the law governing respondent's profession."

1. Respondent failed to comply with the standards of conduct prescribed by law governing his profession by failing to produce patient records as set forth above in paragraphs H, H1 and H2.

#### SPECIFICATION OF CHARGES

##### FIRST THROUGH SEVENTH SPECIFICATIONS

##### (PRACTICING WITH GROSS NEGLIGENCE)

Respondent is charged with practicing the profession of medicine with gross negligence within the meaning of N.Y. Educ. Law §6530(4) (McKinney Supp. 1993) [(formerly N.Y. Educ. Law §§6509(2)] in that Petitioner charges:

1. The facts of paragraphs A and A1 and A.1.a., A and A1 and A.1.b, A and A1 and A.1.c., A and A.2, and/or A and A.3.

FIFTEENTH SPECIFICATION  
(PRACTICING WITH NEGLIGENCE ON MORE THAN  
ONE OCCASION)

Respondent is charged with practicing the profession of medicine with negligence on more than one occasion within the meaning of N.Y. Educ. Law §6530(3) (McKinney Supp. 1993) [(formerly N.Y. Educ. Law §6509(2)] in that Petitioner charges that the Respondent committed two or more of the following:

15. The facts of paragraphs A and A.1 and A.1.a., A and A.1 and A.1.b, A and A.1 and A.1.c., A and A.2, A and A.3, B and B.1 and B.1.a., B and B.1. and B.1.b., C and C.1, C and C.2, D and D.1 and D.1.a., D and D.1 and D.1.b., D and D.1. and D.1.c., D and D.1 and D.1.d., D and D.2., D and D.3, E and E.1., E and E.2, F and F.1., F and F.2, G and G.1. and G.1.a, G and G.1. and G.1.b., and/or G and G.1. and G.1.c.

SIXTEENTH SPECIFICATION

(PRACTICING WITH INCOMPETENCE ON MORE THAN ONE OCCASION)

Respondent is charged with practicing the profession of medicine with incompetence on more than one occasion within the meaning of NY Education Law §6530(5) (McKinney Supp. 1993) [(formerly NY Education Law §6509(2)] in that Petitioner charges that the Respondent committed two or more of the following:

16. The facts of paragraphs A and A.1 and A.1.a., A and A.1 and A.1.b, A and A.1 and A.1.c., A and A.2, A and A.3, B and B.1 and B.1.a., B and B.1. and B.1.b., C and C.1, C and C.2, D and D.1 and D.1.a., D and D.1 and D.1.b., D and D.1. and D.1.c., D and D.1 and D.1.d., D and D.2., D and D.3, E and E.1., E and E.2, F and F.1., F and F.2, G and G.1. and G.1.a, G and G.1. and G.1.b., and/or G and G.1. and G.1.c.

2. The facts of paragraphs B and B1 and B.1.a., and/or B and B.1. and B.1.b.
3. The facts of paragraphs C and C1 and/or C and C2.
4. The facts of paragraphs D and D1 and D.1.a., D and D1 and D.1.b., D and D.1. and D.1.c., D and D.1 and D.1.d., D and D.2., and/or D and D.3.
5. The facts of paragraphs E and E.1., and/or E and E.2.
6. The facts of paragraphs F and F.1., and/or F and F.2.
7. The facts of paragraphs G and G.1. and G.1.a, G and G.1. and G.1.b., and/or G and G.1. and G.1.c.

EIGHTH THROUGH FOURTEENTH SPECIFICATIONS  
(PRACTICING WITH GROSS INCOMPETENCE)

Respondent is charged with practicing the profession of medicine with gross incompetence within the meaning of N.Y. Educ. Law §6530(6) (McKinney Supp. 1993) [(formerly N.Y. Educ. Law §6509(2)] in that Petitioner charges:

8. The facts of paragraphs A and A1 and A.1.a., A and A1 and A.1.b, A and A1 and A.1.c., A and A.2, and/or A and A.3.
9. The facts of paragraphs B and B1 and B.1.a., and/or B and B.1. and B.1.b.
10. The facts of paragraphs C and C1 and/or C and C2.
11. The facts of paragraphs D and D1 and D.1.a., D and D1 and D.1.b., D and D.1. and D.1.c., D and D.1 and D.1.d., D and D.2., and/or D and D.3.
12. The facts of paragraphs E and E.1., and/or E and E.2.
13. The facts of paragraphs F and F.1., and/or F and F.2.
14. The facts of paragraphs G and G.1. and G.1.a, G and G.1. and G.1.b., and/or G and G.1. and G.1.c.

SEVENTEENTH THROUGH NINETEENTH SPECIFICATIONS

(PRACTICING THE PROFESSION FRAUDULENTLY)

Respondent is charged with practicing the profession of medicine fraudulently under N.Y. Educ. Law §6530(2) (McKinney Supp. 1993) [(formerly N.Y. Educ. Law §6509(2)] in that Petitioner charges:

17. The facts of paragraphs A and A.3.
18. The facts of paragraphs B and B.1 and B.1.b and/or B and B.1 and B.1.c.
19. The facts of paragraphs D and D.2.

TWENTIETH THROUGH TWENTY-SECOND SPECIFICATIONS  
(ORDERING OF EXCESSIVE TESTS OR TREATMENT)

Respondent is charged with professional misconduct of ordering excessive tests or treatment not warranted by the condition of the patient within the meaning of N.Y. Educ. Law §6530(35) (McKinney Supp. 1993) [(formerly N.Y. Educ. Law §6509(9) and 8 NYCRR 29.2(a)(7)] in that Petitioner charges:

20. The facts of paragraphs A and A.1 and A.1.a, A and A.1.b, and/or A and A.2.
21. The facts of paragraphs C and C.1.
22. The facts of paragraphs G and G.1. and G.1.a.

TWENTY-THIRD THROUGH TWENTY-FIFTH SPECIFICATIONS

(MORAL UNFITNESS)

Respondent is charged with conduct in the practice of medicine which evidences moral unfitness to practice medicine

within the meaning of N.Y. Educ. Law §6530(20) (McKinney Supp. 1993) [(formerly N.Y. Educ. Law §6509(9) and 8 NYCRR 29.1(b)(5)] in that Petitioner charges:

23. The facts of paragraphs A and A.3.
24. The facts of paragraphs B and B.1. and B.1.a, B and B.1 and B.1.b, and/or B and B.1. and B.1.c.
25. The facts of paragraphs D and D.2.

TWENTY-SIXTH SPECIFICATION  
(FAILURE TO MAKE AVAILABLE RECORDS)

Respondent is charged with failing to make available relevant records with respect to an inquiry or complaint about the licensee's professional misconduct within the meaning of N.Y. Educ. Law §6530(28) (McKinney Supp. 1993) in that Petitioner charges:

26. The facts of paragraphs H and H.1. and H.2.

TWENTY-SEVENTH SPECIFICATION  
(VIOLATION OF PROBATION)

Respondent is charged with violating a term of probation imposed on him pursuant to section two hundred thirty of the public health law within the meaning of N.Y. Educ. Law §6530(29) (McKinney Supp. 1993) in that Petitioner charges:

27. The facts of paragraphs I and I.1.



DATED: Albany, New York

*April 19, 1993*

Redacted Signature

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