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Pittsburgh, Pennsylvania 15212
(412) 322-7677



4037 Perrysville Avenue
Pittsburgh, Pennsylvania 15214
(412) 931-2688

EVELYN S. BERWICK, M.D.
INTERNAL MEDICINE - FAMILY PRACTICE

August 2, 2006

Kenneth B. Jones, Esquire P.H.P. Counsel
Physicians Health Program
777 East Park drive
P.O. Box 8820
Harrisburg, PA 17105-8820

Dear Mr. Jones,

In response to your July 24, 2006 letter I have instructed my web master to implement some of the corrections to themedigatecase.com web site which you requested: [1] to remove all references to the P.H.P being a state agency – thank you for this clarification; [2] to correct the allegations about “*written notification*” being sent to institutions where Dr. Berwick practiced - since to date we have not been able to produce a copy. However, I must clearly state that for item 2 above the P.H.P. Medical Director, Dr. Thomas R. Hobbs informed me in our first telephone conversation that notification of institutions was P.H.P. protocol for those “*in the program*” and that they would indeed send them. Additionally, U.P.M.C. Chief Medical Officer Dr. Lauren Roth also informed me that this was in fact P.H.P. protocol.

In the remaining portion of this letter I will address each of the key issues you raised individually, in an attempt to educate you about the facts related to Dr. Berwick’s erroneous referral to the Physicians Health Program. In addition I have provided documented evidence as attachments to this letter. Since your letter still holds to the claim that Dr. Berwick referred herself to the P.H.P. you are either misinformed or still attempting to cover up for the wrongful actions of a U.P.M.C. prominent member, Dr. Francis X. Solano Jr., just as you did in your letter of August 29, 2005 to Victor H. Pribanic (see Attachment “A”).

I sincerely request that you assimilate and retain the following Table of Issues and Factual Responses, because they are relevant to our continued pursuit of justice for the destruction of Dr. Berwick’s impeccable reputation and highly successful medical practice. The direct cause of the tragic events was her wrongful and secretive referral to the Physicians Health Program made by Dr. Francis X Solano Jr. Each of your issues are consecutively numbered and addressed by a corresponding and precise response.

ROBERT P. HUSSEY, GENERAL BUSINESS MANAGER
1524 Tretter Drive, Pittsburgh, Pennsylvania 15227
(412) 882-8599 or (412) 298-5803

Table of Issues and Factual Responses

Issue 1. In paragraph 1 you refer to *those associated with the PHP.*

Response: What you should have written was “Dr. Hobbs and Ken Jones, Esquire.” All references I make to you and Dr. Hobbs are totally accurate and supported with iron-clad evidence.

Issue 2. Also in Paragraph 1 you state that *Much of that information you know or should know is false.*

Response: With the exceptions of the corrections I have agreed to make as stated above, the information meticulously portrayed in the website *themedigatecase.com* is true and supported by referenced documentation where appropriate. The site is non-inclusive and is revised as new information is received or corrections offered by others, as you have done. We will post your recent letter and our response to it as additional website documentation.

Issue 3. In your first example of our false information you claim that “Dr. Berwick was never enrolled in the P.H.P.”

Response: Dr. Berwick was most assuredly “in the program.” She was secretively referred to the P.H.P. by Francis X. Solano, Jr. M.D. during her in patient stay at U.P.M.C. Montifiore Hospital shortly following an encounter where he erroneously and publicly accused her of being a recreational morphine user. Dr. Solano admits to referring her during an extensive investigation launched by the President and Chief Executive Officer of U.P.M.C. Montifiore Hospital, Liz Concordia, in her letter of January 13, 2003 (see Attachment “B”). Among other evidence that Dr. Berwick was placed into “the program” erroneously, please note that Dr. Maurice Cerul told Dr. Berwick that she was not permitted to continue practicing medicine because she was enrolled in the impaired physician’s program. Additionally, Dr. Thomas Hobbs in his letter of December 2, 2002 states that Dr. Berwick was referred to the P.H.P. (see Attachment “C”).

A virtual mountain of evidence exists that Dr. Berwick was referred to the P.H.P. in a totally inappropriate manner by Dr. Solano, and that the P.H.P. accepted Dr. Berwick into their organization as an impaired physician without following any criteria, protocol or common sense. Dr. Berwick was NEVER an impaired physician in her entire 30 year career. She only had temporary symptoms of “memory disruption” as Dr. Hobbs called it, while she was a patient in U.P.M.C. Montifiore Hospital for less than one week.

Issue 4. In your example 1 you again claim that Dr. Berwick contacted the P.H.P.

Response: Dr. Berwick NEVER contacted the P.H.P. and enrolled herself. Your insinuation in two different documents is so far beyond accurate that there are no terms to describe how wrong you are. Again read and assimilate Attachments “A”, “B” and “C”.

Issue 5. Your Example No. 2 . . . again with the fixation and false claim that Dr. Berwick referred herself to an organization with a reputation in the medical community for destroying careers.

Response: Evidently you need to more carefully review the letter from the President and Chief Executive Officer of the University Of Pittsburgh Medical Center, (Montifiore Hospital) until you understand that Dr. Berwick was referred to the P.H.P. by Francis X. Solano, Jr. M.D. by his own admission during an official U.P.M.C. investigation, by Elizabeth Concordia and most importantly by Dr. Hobbs himself.

Quit attempting to cover-up the fact that Dr. Berwick was erroneously referred to the P.H.P. because of the morphine that U.P.M.C. injected into her in *their* emergency room.

Issue 6. Your Example No 3 addressing the initial P.H.P. referral letter as being “*an accurate description of actual events.*”

Response: The initial referral to the P.H.P. did in deed contain lies, incompetent acts and a scandalous indifference to the life, reputation, career, and medical practices of Evelyn S. Berwick, M.D. Again, please assimilate what Attachments “A”, “B” and “C” have to say about Dr. Berwick’s referral and stop making false claims that she referred herself.

Issue 7. Your example No. 4 addresses our allegations.

Response: There are no allegations here, only facts and evidence to prove them.

Issue 8. Also in your example 4 you address the actions of the P.H.P. being harmful to Dr. Berwick as just allegations.

Response: The harm that was caused by Dr. Solano’s wrongful referral and the P.H.P.’s unwillingness to admit that the referral was made in error and to support my requests to help Dr. Berwick clear this matter with medical institutions was so total and complete that Dr. Berwick has gone from being one of the most successful and prolific physicians in the United States with a flawless record, to a state of penniless retirement in her fifties.

The extremely negative stigma attached to the real impaired physicians in your program was automatically and instantaneously infused into Dr. Berwick at the precise moment that Dr. Solano referred her and the P.H.P. prematurely placed her “in the program” without her knowledge or consent.

Issue 9. Also in your example 4 you write that when Dr. Berwick furnished satisfactory reports to the P.H.P., “*her case was closed*”.

Response: Well, Mr. Jones, if she was a case that was closed, doesn’t that prove that she was enrolled into the program.

Issue 10. Also in your example 4 you claim that the P.H.P. did not try to enroll Dr. Berwick.

Response: Yes, it did. Dr. Berwick was indeed placed into the impaired physician's program. In addition to the documentation provided in Attachments "A", "B" and "C", this was also confirmed and documented by Dr. Maurice S. Cerul. After releasing Dr. Berwick to return to her practice she received a frantic phone call from Dr. Cerul stating that she was in the P.H.P.'s impaired physicians program. Additionally, she was informed that there were formal procedures, documents and requirements to be completed before she could return to her medical practice. It was only then that Dr. Berwick became aware that she was "*in the P.H.P. program*" and that a serious error had been made by Dr. Solano. I offer Attachment "D" as additional documented evidence for you to assimilate. Dr. Cerul's notes of September 5, 2002 mention nothing about the P.H.P. However, his addendum written 5 days later on September 10, 2002 clearly references a later discussion with Dr. Solano and for the first time he refers to the P.H.P. Please note on the last page of Attachment "D" Dr. Cerul wrote PHP in the space titled Referred By.

Issue 11. In your Example 5 you offer the clarification that the P.H.P. is not a state agency.

Response: Thank you for this correction. I have instructed my web master to make the appropriate changes to themedigatecase.com. In the future we will refer to the P.H.P. only as a program supported by the Pennsylvania Medical Society.

Issue 12. In your closing paragraph you claim that there are "*ludicrous accusations of incompetence or unethical conduct*".

Response: With the exception of the letters of notification being sent by the P.H.P. to institutions, (which we will correct as stated previously, since we have yet to obtain these as official records) our claims are heavily documented facts. Your recent letter, Mr. Jones, continues to show considerable incompetence and unethical conduct because you continue to publish false statements relevant to Dr. Berwick's referral.

Issue 13. In your closing paragraph line 2 you request that I retract our statements of incompetence and unethical conduct.

Response: We cannot call our documented evidence and pursuit of a wrongful action, medical ethics fair settlement for Dr. Berwick untrue. That would be ridiculous.

Issue 14. Again in line 2 of your closing paragraph you request an apology for misstatements and inaccurate conclusions.

Response: The Antagonists in this case are Dr. Francis X. Solano Jr., Dr. Robert Hobbs, and *you*, Mr. Ken Jones, Esquire and all of you should apologize to Dr. Evelyn S. Berwick for the destruction of her reputation and medical practice.

Issue 15. In your closing paragraph you request that we remove all references to the Physicians' Health Program and refrain from further derogatory comments.

Response: Derogatory statements about the conduct of those associated with the P.H.P. (specifically you and Dr. Hobbs) are (in this case), in my opinion entirely appropriate. Additionally, Dr. Solano's wrongful actions included the erroneous P.H.P. referral. Maybe you should be taking issue with him in this case. You and Dr. Hobbs chose to do nothing to help Dr. Berwick clear her name with institutions and continue to this day to cover for Dr. Solano. Therefore, we will continue to seek fair settlement in this precedent setting case. Our claims about the actions of the P.H.P. are appropriate, clearly documented and we will continue our quest for justice.

Issue 16. In your closing paragraph you request that I cease the harassing phone calls.

Response: In my 53 years of life on Earth, I have never made a harassing phone call. If you categorize polite, patient, and professional requests that I have made to you as harassing, you will have to produce some proof that I did anything but call you several times to get to the bottom of this undeserved destruction of Dr. Berwick. As you know, in almost every attempt I made to speak with you, you would not even come to the phone. Under these circumstances your conduct was and continues to be highly unprofessional.

Issue 17. In your closing paragraph you wrote about threats of law suits.

Response: When and if lawsuits occur in this case, we welcome them. Then, at least, what you people have done to Dr. Berwick will be a matter of public record. Everyone involved will have to testify under oath and penalty of perjury. The attempted cover-up will be exposed and a jury will render a financial settlement on the grounds of wrongful action and medical ethics violations, etc.

Issue 18. In your closing paragraph you also wrote about my demands for additional information.

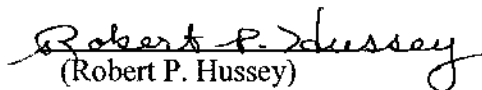
Response: Any additional information we may or my not need will be furnished at discovery proceedings, if it comes to that.

Issue 18. In your final sentence you claim that I have characterized my conduct toward the P.H.P.

Response: My "conduct" toward the P.H.P. has been patient, persistent, and completely professional from day one to the present.

Unlike your methods of communicating, I would welcome a personal meeting, teleconference, or any other official, or unofficial meeting in which we could do what should have been done in August of 2002. We should now all work together to help Dr. Berwick, her husband, and minor children survive with no income and to help her get out of the hundreds of thousands of dollars of debt which she incurred as a direct result of the wrongful actions of Dr. Francis X. Solano Jr. He is responsible for this whole mess by erroneously referring Dr. Berwick to a program designed for practicing physicians who are impaired by drug and alcohol addiction in lieu of making a standard recommendation to follow up with a neurologist and or psychiatrist concerning her "temporary memory disruptions." What does it take for you to see the truth and to help an innocent doctor who has been victimized?

Sincerely,


(Robert P. Hussey)

ATTACHMENT "A"

own
Pull
File



August 29, 2005

Victor H. Pribanic
Pribanic & Pribanic
1735 Lincoln Way
White Oak, PA 15131

Re: Evelyn S Berwick, MD

A blatant lie

Dear Mr. Pribanic:

This letter is in response to your request for information regarding Dr. Berwick's referral to the Physicians' Health Programs (PHP). I will respond to the questions posed in your letter.

1. ~~Dr. Berwick~~ referred and referred herself to the PHP on August 26, 2002.
2. The method of contact is not recorded in the files; I believe the PHP received a telephone contact from Dr. Berwick.
3. A member of the PHP staff fielded the call.
4. There is no record of informing Dr. Berwick that her referral would be published in any "publication or institution". There was no such publication.
5. There are no criteria. The PHP accepts referrals and seeks to offer assistance and support to physicians.
6. The PHP accepts referrals stating concern for physicians in a variety of circumstances. Being hospitalized, or being temporarily out of medicine would not present barriers to a physician receiving the services of the PHP.

In sum the PHP received a contact from Dr. Berwick. The PHP staff made a referral to a local psychiatrist. Later, Dr. Berwick sent reports to the PHP from her own specialists indicating her condition was stable. At that time Dr. Berwick and Mr. Hussey indicated their desire to terminate involvement with the PHP. Her case was closed and the offer made of assistance in the future if needed.

Please feel free to give me a call if you want additional background on the PHP. My direct line is 717-558-7826.

Sincerely,

Kenneth Jones
Kenneth Jones, Esq.

RECEIVED BY BAJ

SEP 1 2005

FORWARD TO PHP

777 East Park Drive • P.O. Box 8828 • Harrisburg, PA 17105-8828

TEL 717 558-7819 • TOLL-FREE LINE 1-866-747-2255 • FAX 717-558-7818 • EMAIL php-foundation@pamedsoc.org • www.phphp.org

The official registration and financial information of the Foundation may be obtained from the Pennsylvania Department of State by calling toll-free within Pennsylvania, 1-800-732-8939. Registration does not imply endorsement.



UPMC HEALTH SYSTEM

UPMC Presbyterian/UPMC Shadyside

Elizabeth B. Concordia
President

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412-647-8788
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concordiaeb@upmc.edu

UPMC Shadyside
5230 Centre Avenue
Pittsburgh, PA 15232-1381
412-623-2010
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concordiaeb@upmc.edu

January 13, 2003

Robert Hussey
1524 Tretter Drive
Pittsburgh, PA 15227

Dear Mr. Hussey:

Thank you for sharing your concerns regarding your wife's hospitalization at UPMC Presbyterian with Stacie Amorose, Patient Relations Manager on December 5, 2002. I regret that you were dissatisfied with the services provided to your wife.

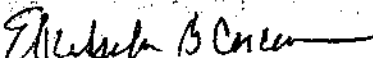
Your concerns regarding the communication between Francis Solano Jr., M.D., and your wife, as well as, your concern regarding her referral to the Physician Health Program were shared with our Assistant Medical Director. Per the UPMC Presbyterian Physician Bylaws, a confidential investigation was conducted.

During our investigation, we spoke with Dr. Solano. Dr. Solano was apologetic regarding his miscommunication with your wife during her admission assessment, but did note that he immediately apologized to her for this incident. In regards to the referral to the Physician Health Program, Dr. Solano admits that he did refer your wife to the program based on her medical condition and not related to any drug or alcohol problem. He also stated that he had extensive discussions with your wife regarding medical issues that were affecting her cognitive function. Dr. Solano was concerned that your wife receives the appropriate medical treatment and testing so she could continue her profession.

I hope that your wife is continuing on her road to recovery. If we can ever be of further assistance to you or your family, please feel free to contact the Patient and Family Support Services Department at (412) 647-7615.

Although your recent experience cannot be changed, thank you for taking the time to express your concerns. Our primary mission at the UPMC Health System is patient care that is based upon a strong commitment to excellence in service. It is by listening and responding to the concerns and observations of our patients and their families that make us able to improve this care.

Sincerely,


Elizabeth B. Concordia
President and CEO



The Foundation
of the Pennsylvania Medical Society
Physicians'
HEALTH PROGRAMS

December 2, 2002

Evelyn S. Berwick, MD
1524 Tretter Drive
Pittsburgh, PA 15227

Dear Dr. Berwick:

In response to your request for a detailed letter for the purpose of credentialing, I am providing this summary of your contact with the Physicians' Health Programs (PHP). You were referred to the Physicians' Health Programs following an episode of ~~absent-mindedness~~ accompanied by symptoms of memory disruption. PHP staff requested that you seek evaluation. You first saw Dr. Cerul, and later saw Dr. Goubert.

After reviewing the results of these visits along with Dr. Hassouri's report, ~~PHP decided~~ ~~to~~. It does not appear that ~~you~~ at the present time. If, in the future, you need our services, please do not hesitate to contact the PHP office.

Sincerely,

Thomas R. Hobbs, PhD, MD, FASAM
Medical Director

TH

cc: Ken Jones, Esquire

This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR, part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR, part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute ~~_____~~

MAURICE S. CERUL, M.D.
401 SHADY AVENUE, SUITE B-104
PITTSBURGH, PA 15206
TELEPHONE: 381-4144

September 5, 2002

Psychiatric Evaluation and Mental Status
Re: Evelyn Berwick, M.D.

Evelyn Berwick, M.D. is a fifty three year old internist and family practitioner. She has been married twenty years and has three children ages seventeen, twelve, and ten. Her husband, age forty nine, is a designer and inventor.

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Dr. Berwick was born with two congenitally deformed kidneys. This was monitored over time, and about two years ago she developed high blood pressure and was placed on medication. However about a month ago she began to feel dizzy, confused, and had a severe headache. She could not remember facts or events. She could not remember names or recognize foods. Her behaviour became erratic and bizarre. Her blood pressure was extremely high (300 over 240) and she was hospitalized by Francis Solano, M.D. A severe renal artery stenosis was found and unblocked. She was discharged much improved, and on multiple blood pressure medications.

Current mental status reveals minimal sequelae. There is still some memory loss for some words and events, especially events before the hospitalization. But basically recent and remote memory are good. Orientation is normal. Memory of presidents is normal. Judgement is normal and proverb interpretation is good. Dr. Berwick states "I know I was wacky and I know I do not want to hurt a patient." Dr. Berwick had a minor depression in college and saw a psychiatrist for a month. Recently she was given Zoloft for depression but stopped due to side effects. Her husband was present for part of the evaluation and he states "she is essentially back to normal." Dr. Berwick is a solo practitioner (after separating from two partners who stole money from her) and she has a very busy practice

*- willing to
ok*

- IMPRESSION: 1) Organic Mental Disorder (294.80) due to high blood pressure due to renal artery stenosis - currently much improved
2) History of some depression

- RECOMMENDATIONS: 1) Medical followup by Dr. Solano
2) Psychiatric followup of at least monthly visits for the next six months to evaluate mental status functioning and improvement
3) Reduce stress of very busy solo practice
4) Dr. Berwick has agreed to these recommendations

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Respectfully submitted,
M. Cerul
Maurice S. Cerul, M.D.

MAURICE S. CERUL, M.D.
401 SHADY AVENUE SUITE B 104
PITTSBURGH, PA 15208
TELEPHONE: 361-4144

September 10, 2002

Addendum

Re: Evelyn Berwick, M.D.

I spoke with Dr. Solano today who feels uncomfortable releasing Dr. Berwick back to her medical practice until he is more sure of her mental status, which he hopes the PHP will evaluate. Dr. Solano does not feel that the diagnosis was renal stenosis, but was hypertension of unknown cause. He feels Dr. Berwick was very confused in the hospital, was very depressed, and has severe marital problems. Dr. Solano feels the confusion may have been due more to depression rather than an organic brain syndrome. Although Dr. Berwick's husband states "she is back to normal" Dr. Solano feels there is more going on than Dr. Berwick admits to. - spit her thru 5 min (day) at a time to me!! -

FURTHER RECOMMENDATIONS:

- 1) Obtain hospital records to evaluate medical diagnosis and current medical situation
- 2) Pssychiatric evaluation on a more regular basis to evaluate mental status, depression, organicity, and marital conflicts
- 3) Psychological tests to evaluate organicity and depression

Respectfully submitted,

M. S. Cerul

Maurice S. Cerul, M.D.

check off notes of 9/14/02 off his chart. He should not be released - not for by

Does he know his name or case?

Why? Please deal to his + do not hurt!!

not true told me to consider to be with if I was still home re my memory

M. S. Cerul

initial other work up were opened (last)

