STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H. , Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

REDACTED

PUBLIC November 26, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Arvinder Singh, M.D.
REDACTED

John L. Pollok, Esq.
Hoffman & Pollok
260 Madison Avenue
New York, New York 10016

Robert Bogan, Esq.
Richard Zahnleuter, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180-2299

RE: In the Matter of Arvinder Singh, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-326) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

REDACTED
Sean D. O'Brien, Director
Bureau of Adjudication

SDO:djh

Enclosure

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

COPY

IN THE MATTER

OF

ARVINDER SINGH, M.D.

DETERMINATION

AND

ORDER

BPMC NO. 03-0326

A hearing was held on November 20, 2003, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated July 25, 2003, were served upon the Respondent, **Arvinder Singh, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Charles J. Vacanti, M.D.**, Chairperson, **Mohammad Ghazi-Moghadam, M.D.**, and **Ms. Virginia R. Marty**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, and **Richard Zahnleuter, Esq.**, of Counsel. The Respondent, who is incarcerated, did not appear in person. He was represented at the hearing by **John L. Pollok, Esq.**, Hoffman & Pollok, 260 Madison Avenue, New York, New York 10016.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	Lee Nagel, Ph.D. Charlene Mumford William Dippo Robert Barshied

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Arvinder Singh, M.D., the Respondent, was authorized to practice medicine in New York State on August 5, 1985, by the issuance of license number 163625 by the New York State Education Department (Petitioner's Ex. 4).

2. On December 8, 2002, in the United States District Court for the Northern District of New York, the Respondent was found guilty of sixteen counts of Health Care Fraud, in violation of 18 U.S.C. Section 1347, one count of Conspiracy to Distribute Narcotics, in violation of 21 U.S.C. Section 846, and 24 counts of Illegal Distribution and Dispensation of Schedule II Controlled Substances, in violation of 21 U.S.C. Section 841(a)(1). On July 1, 2003, the Respondent was sentenced to 46 months imprisonment, three years probation after release from prison, restitution, and a $4,200.00 assessment. (Petitioner's Ex. 5, 6 and 8).

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(a)(ii) by having been convicted of committing acts constituting a crime under federal law..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent argued that despite the fact that he was convicted for the commission of 41 felonies, he should suffer no more than a suspension of his license to practice medicine. He contended that the Hearing Committee should not impose the revocation of his license that is sought by the Petitioner. The rationale for the Respondent's position is that he is a physician who, in his pain management practice, takes an exceptional interest in the welfare of his patients and achieves extraordinary results in the treatment that he provides. Respondent's Exhibit A is a collection of 140 documents, 137 of which are letters from colleagues, friends, a Congressman, patients,

and relatives of patients. These letters attest to the Respondent's concern and dedication and to the skillful and successful medical care that he has provided on many occasions. A theme appearing many times in these letters is that, after the patient suffered severe pain for years under the unsuccessful care of other physicians, the Respondent's treatment caused the pain to subside significantly or disappear. The witnesses who testified at the hearing continued this theme.

The Hearing Committee acknowledges that the evidence in support of the Respondent's dedication and skill is impressive, but the nature and scope of his crimes makes it irresponsible to impose a suspension rather than a revocation of the Respondent's license. The Respondent, at his pain management clinic, had members of his staff bill Medicare and several insurance companies using billing codes available only for services provided by a physician. However, these services were actually provided by nurses. This was done with intent to deceive Medicare and the insurance companies into providing greater reimbursement than had been earned. The Respondent used this scheme repeatedly for more than three years.

The Respondent also made a practice of violating the law regarding triplicate prescriptions for Schedule II controlled substances. For approximately three and one-half years, he signed such prescriptions for use by nurses and other personnel at the clinic. These personnel, none of whom were legally authorized to prescribe Schedule II controlled substances, later filled in the patient name, the drug prescribed and the dosage without physician supervision or participation.

The crimes that the Respondent committed were not aberrations from his normal practice; they were his standard method of doing business. He routinely defrauded money from Medicare and insurance companies and he recklessly endangered his

patients by allowing unqualified personnel to prescribe drugs that have great potential for abuse.

The Respondent noted that the District Court Judge gave him the lightest sentence available under the Federal sentencing law. This does not help the Respondent. The fact that nearly four years of imprisonment is the lightest sentence available only serves to demonstrate that the Respondent's crimes are extremely serious. Nothing less than a revocation of the Respondent's license and a $10,000.00 civil penalty would be commensurate with the Respondent's serious and repeated misconduct.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine is revoked.

2. A civil penalty of $10,000.00, payable within 90 days of the effective date of this Order, is imposed on the Respondent. Payment must be submitted to New York State Department of Health, Bureau of Accounts Management, Empire State Plaza, Corning Tower, Room 1258, Albany, New York, 12237.

3. This Order shall be effective upon service in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Pittsford, New York
24 November, **2003**

REDACTED

Charles J. Vacanti, M.D.
Chairperson

Mohammad Ghazi-Moghadam, M.D.
Virginia R. Marty

APPENDIX 1

ORIGINAL

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

IN THE MATTER

OF

ARVINDER SINGH, M.D.
AL-97-12-5462-A

NOTICE OF

REFERRAL

PROCEEDING

TO: ARVINDER SINGH, M.D.
REDACTED

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 21st day of August 2003, at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York state. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON.

TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before August 11, 2003.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before August 11, 2003, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
July 25, 2003

REDACTED

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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

STATE OF NEW YORK : DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF ARVINDER SINGH, M.D. AL-97-12-5462-A	STATEMENT OF CHARGES

ARVINDER SINGH, M.D., the Respondent, was authorized to practice medicine in New York state on August 5, 1985, by the issuance of license number 163625 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 8, 2002, in the United States District Court for the Northern District of New York, Respondent was found guilty of sixteen (16) counts Health Care Fraud, in violation of Title 18, U.S.C. §1347, one (1) count of Conspiracy to Distribute Narcotics, in violation of Title 21 U.S.C. §846, and twenty four (24) counts of Illegal Distribution and Dispensation of Schedule II Controlled Substances, in violation of Title 21 U.S.C. §41(a)(1), all felonies, and on or about July 1, 2003, was sentenced to forty-six (46) months imprisonment, three (3) years probation after release from imprisonment, restitution, and a $4,200.00, fine.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by having been convicted of committing acts constituting crimes under federal law, in that Petitioner charges:

1. The facts in paragraph A.

DATED: July 25, 2003
Albany, New York

REDACTED

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