



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

RECEIVED

MAY 15 1995

May 15, 1995

Office of Professional
MEDICAL CONDUCT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Irene Koch, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza-Sixth Floor
New York, New York 10001-1810

Richard F. Kiepfer, M.D.
208 Willschlaeger Drive
Boerne, Texas 78006

RE: In the Matter of Richard Kiepfer, M.D.

Effective Date: 05/22/95

Dear Ms. Koch and Dr. Kiepfer:

Enclosed please find the Determination and Order (No. 95-102) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

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 all action 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.

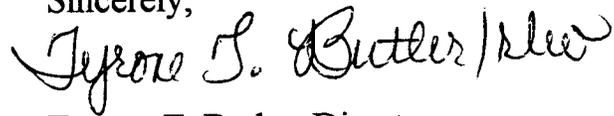
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

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,

A handwritten signature in cursive script that reads "Tyrone T. Butler /rlw". The signature is written in black ink and is positioned above the typed name.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:rlw
Enclosure

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

**IN THE MATTER
OF
RICHARD F. KIEPFER, M.D.**

**DETERMINATION
AND
ORDER**
BPMC-95-102

HILDA RATNER, M.D., (Chair), **ROBERT J. O'CONNOR, M.D.** and **MICHAEL A. GONZALEZ, R.P.A.** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10)(e) of the Public Health Law of the State of New York.

MARC P. ZYLBERBERG, ESQ., **ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer.

The New York State Department of Health appeared by **IRENE M. KOCH, ESQ.**, Assistant Counsel.

Respondent, **RICHARD F. KIEPFER, M.D.**, appeared personally at the hearing on his own behalf and was not represented by counsel.

A hearing was held on March 21, 1995. Evidence was received and examined, a witness was sworn or affirmed and examined. A transcript of the proceedings was made. After consideration of the entire record, the Hearing Committee issues this Determination and Order, pursuant to the Public Health Law and the Education Law of the State of New York.

STATEMENT OF CASE

The State Board for Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York. (§230 et seq. of the Public Health Law of the State of New York [hereinafter P.H.L.]

This case, brought pursuant to P.H.L. §230(10)(p), is also referred to as an "expedited hearing". The scope of an expedited hearing is strictly limited to evidence or sworn testimony relating to the nature and severity of the penalty to be imposed on the licensee¹ (Respondent).

RICHARD F. KIEPFER, M.D., (hereinafter "Respondent") is charged with professional misconduct within the meaning of §6530(9)(a)(iii), §6530(9)(b) and §6530(9)(d) of the Education Law of the State of New York ("Education Law").

Education Law §6530(9)(a)(iii) defines professional misconduct in terms of being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within New York, would have constituted a crime under the laws of New York State (Petitioner's Exhibit # 1 and §6530[9][a][iii] of the Education Law).

In order to find that Respondent committed professional misconduct, the Hearing Committee, pursuant to §6530(9)(a)(iii) of the Education Law, must determine: (1) whether Respondent has been convicted of a crime in another state and (2) whether Respondent's conduct or underlying act(s) would, if committed in New York State, constitute a crime under the laws of New York State.

¹ P.H.L. §230(10)(p), fifth sentence.

Respondent is also charged with professional misconduct within the meaning of §6530(9)(b) of the Education Law, to wit: "professional misconduct ... by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state ..." (Petitioner's Exhibit # 1 and §6530[9][b] of the Education Law).

In order to find that Respondent committed professional misconduct, under §6530(9)(b) of the Education Law, the Hearing Committee must determine: (1) whether Respondent was found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state and (2) whether Respondent's conduct on which the findings were based would, if committed in New York State, constitute professional misconduct under the laws of New York State.

A violation of Education Law §6530(9)(d) is defined as: "professional misconduct ... by reason of having disciplinary action taken by a duly authorized professional disciplinary agency of another state, for conduct, which conduct, would, if committed in New York State constitute professional misconduct under the Laws of New York State (Petitioner's Exhibit # 1 and §6530[9][d] of the Education Law).

Respondent is also charged with professional misconduct within the meaning of §6530(9)(d) of the Education Law. In order to find that Respondent committed professional misconduct under §6530(9)(d) of the Education Law, the Hearing Committee must determine:

(1) whether Respondent had some disciplinary action taken or instituted against him by a duly authorized professional disciplinary agency of another state and

(2) whether Respondent's conduct on which the disciplinary action was taken would, if committed in New York State, constitute professional misconduct under the laws of New York State.

A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. These facts represent 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. Some evidence was rejected as irrelevant. Unless otherwise noted, all Findings and Conclusions herein were unanimous. The State, who has the burden of proof, was required to prove its case by a preponderance of the evidence. All Findings of Fact made by the Hearing Committee were established by at least a preponderance of the evidence.

1. Respondent was authorized to practice medicine in New York State on September 1, 1965 by the issuance of license number 092927 by the New York State Education Department (Petitioner's Exhibits # 1 and # 2)².

² refers to exhibits in evidence submitted by the New York State Department of Health (Petitioner's Exhibit) or by Dr. Richard F. Kiepfer (Respondent's Exhibit). In addition, the administrative officer took judicial notice of the following offered documents or citations as ALJ Notice #: (1) Cohens v. Virginia, 19 U.S. 264, 5 L.Ed. 257, 6 Wheat. 264 (1821); (2) Texas Penal Code §1.04; (3) 21 U.S.C. §828 and §829; (4) 21 CFR §§1316.05, 1316.06, 1316.07, 1316.08 and 1316.10; (5) Texas Health & Safety Code §481.075 and §481.128 (Petitioner's Exhibit # 8 for Identification) and (6) 10 NYCRR §§80.65 through 80.72 and 80.100 through 80.107 (Petitioner's Exhibit # 9 for Identification).

2. The Respondent is not currently registered with the New York State Education Department to practice medicine in the State of New York (Petitioner's Exhibits # 1 and # 2).

3. Respondent was personally served with the Notice of Referral Proceeding and Statement of Charges on October 4, 1994 (Petitioner's Exhibit # 1).

4. Respondent was charged with "intentionally and knowingly ...fail[ing] to make, keep and³ furnish ... [to] the Texas Department of Public Safety, triplicate prescription forms on a Schedule II Texas Controlled Substance, to wit, Pentobarbital..." (said conduct occurred starting on October 24, 1991) (Petitioner's Exhibit # 3).

5. On June 25, 1993, after a jury trial in Kendall County, Texas, Respondent was found guilty, under Docket No. 2942 of the above crime (Petitioner's Exhibit # 4); [T-13].⁴

6. As a result of the finding of guilty on the above crime, Respondent was sentenced to Confinement in the Institutional Division of the Texas Department of Criminal Justice for a term of Six (6) Years and a fine of Ten Thousand (\$10,000.00) Dollars. The Court found that the confinement should be suspended and that Respondent should be placed on probation for a term of six (6) years. In addition Respondent was ordered to perform 600 hours of community service and abide by all terms and conditions of Probation as are contained in the order Granting Probation (Petitioner's Exhibit 4).

³ pursuant to Texas Health & Safety Code §481.128(a)(3) should be "or" (Petitioner's Exhibit # 8 for Identification).

⁴ Numbers in brackets refer to transcript page numbers [T-].

7. The Texas State Board of Medical Examiners of the State of Texas, (hereinafter "Texas Board") is a state agency charged with regulating the practice of medicine pursuant to the laws of the State of Texas (Petitioner's Exhibit # 5).

8. On August 20, 1993, the Texas Board and Respondent entered into an Agreed Order ("Agreed Order")⁵ in which Respondent's license to practice medicine in Texas was suspended, as required by Texas law when there is a finding of guilt of a commission of a felony (Petitioner's Exhibit # 5).

9. In the Consent Order, the Texas Board found that Respondent had been found guilty of the felony offense of failure to make, keep and furnish controlled substance records of the schedule II controlled substance Pentobarbital (Petitioner's Exhibit # 5).

10. The State Board of Medical Examiners of the State of New Jersey, ("New Jersey Board") is a state agency charged with regulating the practice of medicine and surgery pursuant to the laws of the State of New Jersey (Petitioner's Exhibit # 6).

11. On June 2, 1994, the New Jersey Board filed an Administrative Action Order ⁶ ("New Jersey Order") against Respondent (Petitioner's Exhibit # 6).

12. The New Jersey Order found that Respondent had been found guilty of the felony offense of failure to make, keep and furnish controlled substance records of the schedule II controlled substance Pentobarbital. The New Jersey Order further found that Respondent's Texas medical license had been suspended as a result of

⁵ Agreed Order signed by Richard Francis Kieper, M.D. on July 9, 1993 and notarized on that date (Petitioner's Exhibit # 5).

⁶ In the Matter of the Suspension or Revocation of the License of Richard F. Kieper, M.D. to Practice Medicine and Surgery in the State of New Jersey, Administrative Action Order signed by Fred Jacobs, M.D., President of the New Jersey State Board of Medical Examiners and filed with the New Jersey State Board of Medical Examiners, on June 2, 1994 (Petitioner's Exhibit # 6).

Respondent's felony conviction (Petitioner's Exhibit # 6).

13. As a result of the above findings in the New Jersey Order, the New Jersey Board concluded that Respondent's conduct was a violation of New Jersey Laws (N.J.S.A. 45:1-21[g] and 45:1-21[f]) (Petitioner's Exhibit # 6).

14. As a result of the above, the New Jersey Board revoked Respondent license to practice medicine and surgery in the State of New Jersey (Petitioner's Exhibit # 6).

15. Pentobarbital is a schedule II controlled substance under the laws of the State of New York (Petitioner's Exhibit # 7); P.H.L. §3306(Schedule II [e][3]).

16. In New York, a schedule II controlled substance is issued under a prescription in triplicate, which are similar, if not identical to Texas requirements (Petitioner's Exhibit # 7); P.H.L. §3332; Texas Health & Safety Code §481.075 (Petitioner's Exhibit # 8 for Identification).

17. In New York, preservation of prescription (triplicate) records and inspection of same is similar, and runs parallel, to Texas requirements⁷ (Petitioner's Exhibit # 7); P.H.L. §3343 and §3370 and generally P.H.L. §3300 et. seq. (Article 33); 10 NYCRR 80.100, 80.105 and 80.123 (Petitioner's Exhibit # 9 for Identification); Texas Health & Safety Code Chapter 481 (Petitioner's Exhibit # 8 for Identification).

18. Respondent knows how to keep records of dispensing and control of medication [T-21].

⁷ except New York requires that records be kept for at least five (5) years instead of two (2) years required by Texas.

19. Respondent was recently found guilty in Federal court, in Texas, of seventy six (76) counts of failing to keep and maintain accurate records in connection with various drugs that he administered [T-24-25].

CONCLUSIONS OF LAW

The Hearing Committee makes the following conclusions, pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee concludes that the following Factual Allegations, from the September 27, 1994, Statement of Charges, are **SUSTAINED**.⁸

Paragraph A. (first paragraph)	:	(4 - 5)
Paragraph A. (second paragraph)	:	(4 - 6)
Paragraph B (first paragraph)	:	(7 - 9)
Paragraph C (first paragraph)	:	(10 - 14)

Based on the above and all of the Findings of Fact, the Hearing Committee concludes that the following Specifications of Charges are **SUSTAINED**.⁹

FIRST SPECIFICATION:	(Paragraph: A)
SECOND SPECIFICATION:	(Paragraph: B)
THIRD SPECIFICATION:	(Paragraph: C)
FOURTH SPECIFICATION:	(Paragraph: C)

⁸ The numbers in parentheses refer to the Findings of Fact previously made herein by the Hearing Committee and support each Factual Allegation.

⁹ The citations in parentheses refer to the Factual Allegations which support each Specification.

The Hearing Committee concludes that the Department of Health has shown by a preponderance of the evidence that Respondent was found guilty of a crime and of improper professional practice and of professional misconduct by the States of Texas and New Jersey. Respondent's conduct in Texas and New Jersey would constitute a crime and professional misconduct under the laws of New York State. The Department of Health has met its burden of proof.

I Service of Charges and of Notice of Hearing.

P.H.L. §230(10)(d) requires that the Charges and Notice of Hearing be served on the licensee personally, at least twenty (20) days before the Hearing. If personal service cannot be made, due diligence must be shown and certified under oath. After due diligence has been certified, then, the Charges and Notice of Hearing must be served by registered or certified mail to the licensee's last known address, at least fifteen (15) days before the Hearing.

From the affidavit submitted, service of the Notice of Referral Proceeding and the Statement of Charges on Respondent was proper and timely. Jurisdiction over the Respondent was obtained pursuant to P.H.L. §230(10)(d).

II Professional Misconduct under §6530(9)(a)(iii) of the Education Law.

The Hearing Committee concludes that the Department of Health has shown, by a preponderance of the evidence, that Respondent was convicted of committing a crime in Texas.

The Hearing Committee further concludes that Respondent's acts or conduct, to wit, his willful failure to make, keep or furnish the records demanded by the Texas authorities, would, if committed in New York constitute at least a misdemeanor under P.H.L §12-b

Respondent's conviction and conduct constitutes professional misconduct under the laws of New York State. The Department of Health has met its burden of proof.

III Professional Misconduct under §6530(9)(b) of the Education Law.

The Texas Board of Medicine is a duly authorized professional disciplinary agency. In 1993, said Texas Board found Respondent guilty of violating Texas Statute, by being convicted of a crime and said conviction warranted disciplinary action by the Texas Board.

Under the Education Law, Respondent's acts and conduct constitute, at a minimum, the practice of his profession fraudulently¹⁰, of being convicted of a crime¹¹ and failing to file a report required by law to be filed¹².

The New Jersey Board of Medicine is a duly authorized professional disciplinary agency. In 1994, said New Jersey Board found Respondent guilty of violating New Jersey Statutes, by being convicted of a crime and said conviction warranted disciplinary action by the New Jersey Board.

¹⁰ Education Law §6530(2) (intentional misrepresentation or concealment of a known fact).

¹¹ Education Law §6530(9)(a)(iii).

¹² Education Law §6530(21).

Under the Education Law, Respondent's acts and conduct constitute, at a minimum, the practice of his profession fraudulently¹³, of being convicted of a crime¹⁴ and failing to file a report required by law to be filed¹⁵.

The Hearing Committee finds that Respondent's conduct, if committed in New York State, would constitute professional misconduct under §6530 of the Education Law as stated above.

Therefore, Respondent, was found guilty of misconduct by Texas and New Jersey and has committed professional misconduct pursuant to §6530(9)(b) of the Education Law of the State of New York.

IV Professional Misconduct under §6530(9)(d) of the Education Law.

The New Jersey Board of Medicine is a duly authorized professional disciplinary agency. In 1994, said New Jersey Board charged Respondent with violating New Jersey Statutes and instituted disciplinary action against Respondent. As a result, Respondent's license to practice medicine in New Jersey was revoked.

The Hearing Committee finds that Respondent's conduct, if committed in New York State, would constitute professional misconduct under §6530 of the Education Law as stated under paragraph III above. Therefore, Respondent has committed professional misconduct pursuant to §6530(9)(d) of the Education Law.

¹³ Education Law §6530(2) (intentional misrepresentation or concealment of a known fact).

¹⁴ Education Law §6530(9)(a)(iii).

¹⁵ Education Law §6530(21).

DETERMINATION

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determines that Respondent's license to practice medicine in New York State should be REVOKED.

This determination is reached after due and careful consideration of the full spectrum of penalties available pursuant to P.H.L. §230-a, including:

(1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) the imposition of monetary penalties; (8) a course of education or training; (9) performance of public service and (10) probation.

The Committee is bound by the documentary evidence presented by Petitioner.

Respondent's lack of cooperation and compliance with Texas authorities is evident in his course of conduct, as represented by the Record. In addition, although not charged, Respondent was recently convicted in Federal court of seventy six (76) counts of failing to keep and maintain accurate records in connection with various drugs that he administered. Respondent's conduct in Texas involves the abuse of a position of trust that a physician is given. Although none of the specifications of misconduct dealt with Petitioner's performance as a general practitioner, Respondent's record keeping deficiencies demonstrate a lack of medical knowledge and skill on his part, which implicates his general competence to practice medicine and has the potential of placing patients at risk.

The Hearing Committee concludes that if this case had been held in New York, on the facts presented, including Respondent's pattern of willfully and intentionally refusing to make, keep or furnish the requested records, such conduct would have resulted in the revocation of Respondent's license.

The Hearing Committee considers Respondent's misconduct to be very serious. New York is not a dumping ground for physicians who have been banned from practice in other states. Therefore, with a concern for the health and welfare of patients in New York State, the Hearing Committee determines that revocation of Respondent's license is the appropriate sanction to impose under the circumstances. The Hearing Committee notes that revocation is the same penalty imposed by New Jersey and which will be imposed by Texas if Respondent's appeal is not successful.

All other issues raised have been duly considered by the Hearing Committee and would not justify a change in the Findings, Conclusions or Determination contained herein¹⁶.

¹⁶ The Administrative officer has reviewed the voluminous excerpts of the trial transcripts provided by Respondent on both March 20 and 21, 1995. The Administrative officer has not addressed, nor does the Hearing Committee address any alleged Constitutional deprivations asserted by Respondent. The Administrative officer has compared the relevant Texas Statutes with the relevant New York Statutes and, as indicated in the Hearing Committee's findings of fact, they are similar in all major issues in this matter. The Administrative officer has indicated to the Hearing Committee that the Federal Supremacy argument presented by Respondent is not applicable under the factual and legal circumstances of this case, especially since it is the conduct of Respondent which is the focal point of the New York law in regard to misconduct by a physician. (Education Law §6530). The Administrative officer indicates that Respondent's assertion was and continues to be that Federal Law allows him to dispense medication to the ultimate user and that he is allowed to maintain records on his computer. The Administrative officer points out, however, that it is Respondent's failure to make records available, when properly requested by State and Federal authorities, that is the violation or the conduct which Respondent was found guilty of in Texas. The Administrative officer and the Hearing Committee agrees that that conduct is likewise a violation of New York Laws and regulations.

ORDER

Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First through Fourth Specifications of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit # 1) are **SUSTAINED**, and
2. Respondent's license to practice medicine in the State of New York is hereby **REVOKED**.

DATED: Albany, New York
May, 12 1995



HILDA RATNER, M.D., (Chair),

ROBERT J. O'CONNOR, M.D.

MICHAEL A. GONZALEZ, R.P.A.

To: Irene Koch, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza, 6th Floor
New York, New York 10001

Richard F. Kiepfer, M.D.
208 Wollschlaeger Drive
Boerne, Texas 78006

A P P E N D I X I

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

-----X

IN THE MATTER : STATEMENT
OF : OF
RICHARD F. KIEFFER, M.D. : CHARGES

-----X

RICHARD F. KIEFFER, M.D., the Respondent, was authorized to practice medicine in New York State on September 1, 1965 by the issuance of license number 092927 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

- A. On or about June 25, 1993, the Respondent was convicted after a trial in the District Court, 216th Judicial District, Kendall County, of the State of Texas, of Failure to Make, Keep and Furnish Controlled Substance Records on Pentobarbital (Schedule II) in the Second Degree, in that on or about October 24, 1991, the Respondent intentionally and knowingly, while a dispenser (namely a person licensed by the Texas State Board of Medical Examiners as a Medical Practitioner to dispense controlled substances), failed to make, keep, and furnish to a Narcotics Investigator with the

Texas Department of Public Safety, triplicate prescription forms on a Schedule II Texas Controlled Substance, to wit, Pentobarbital.

On or about June 25, 1993, the Respondent was sentenced to six years imprisonment, which imprisonment was suspended, and a fine of \$10,000.00, and Adult probation for a term of six years, requiring, inter alia, Respondent to perform 600 hours of community service.

This act, if committed within New York, would have constituted a crime under New York State law.

- B. On or about August 20, 1993, the Texas State Board of Medical Examiners (the Texas Board) issued an Order, suspending Respondent's Texas medical license upon a finding that Respondent had been convicted of the felony offense of failure to make, keep, and furnish controlled substance records of the schedule II controlled substance Pentobarbital. The Texas Board found Respondent guilty of misconduct as follows: having been convicted of an initial felony conviction, or the initial finding of the trier of fact, of guilt of a felony under Chapter 481 of the Texas

Health and Safety Code (Tex. Rev. Civ. Stat. Ann, Art. 4495B, Section 4.01(b)).

This act, if committed within New York State, would constitute professional misconduct under N.Y.: Educ. Law 6530(9)(a)(iii) (having been convicted of an act constituting a crime under the law of another jurisdiction).

- C. On or about June 2, 1994, the State of New Jersey Board of Medical Examiners (the New Jersey Board) issued an Order, revoking Respondent's New Jersey medical license upon a finding that Respondent had been convicted of the felony offense of failure to make, keep, and furnish controlled substance records of the Schedule II controlled substance Pentobarbital. The New Jersey Board found Respondent guilty of misconduct as follows: having been convicted of a crime (N.J.S.A. Sections 45:1-21 (f) and (g)).

This act, if committed within New York State, would constitute professional misconduct under N.Y. Educ. Law Section 6530(9)(a)(iii) (having been convicted of an act constituting a crime under the law of another jurisdiction).

SPECIFICATIONS OF CHARGES

FIRST SPECIFICATION

HAVING BEEN CONVICTED OF COMMITTING AN ACT
CONSTITUTING A CRIME UNDER THE LAW OF
ANOTHER JURISDICTION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(iii) (McKinney Supp. 1994), in that he was convicted of committing an act constituting a crime under the law of Texas and which, if committed within this State would have constituted a crime under New York State Law. Petitioner charges:

1. The facts in Paragraph A.

SECOND THROUGH THIRD SPECIFICATIONS

HAVING BEEN FOUND GUILTY OF MISCONDUCT
IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(b) (McKinney Supp. 1994), in that he has been found guilty of misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York

State, constitute professional misconduct under the laws of New York State. Petitioner charges:

2. The facts in Paragraph B.

3. The facts in Paragraph C.

FOURTH SPECIFICATION

HAVING HIS LICENSE TO PRACTICE
MEDICINE REVOKED IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(d)(McKinney supp. 1994), in that his license to practice medicine was revoked after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct under the laws of New York State. Petitioner charges:

4. The facts in Paragraph C.

DATED: New York, New York

September 27, 1994

A handwritten signature in black ink, appearing to read "CL-824", written over a horizontal line.

CHRIS STERN HYMAN
Counsel

Bureau of Professional Medical
Conduct