



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Dennis P. Whalen
Executive Deputy Commissioner

June 29, 1999

PUBLIC

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Irwin Birnbaum, Esq.
Merchant's Bank Building
220 South Warren Street
Syracuse, New York 13202

Jude Brearton Mulvey, Esq
NYS Department of Health
Empire State Plaza
Corning Tower – Room 2509
Albany, New York 12237-0032

Henry Hemsley, M.D.
6370 County Road
Norwich, New York 13815

RE: In the Matter of Henry Hemsley, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.99-142) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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.

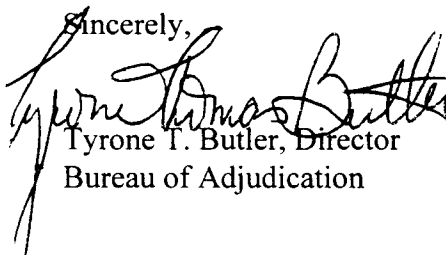
All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

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,

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mla
Enclosure

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

COPY

DETERMINATION

AND

ORDER

ORDER #99-142

IN THE MATTER

OF

HENRY HEMSLEY, M.D.

A Commissioner's Order and Notice of Hearing and a Statement of Charges, dated April 16, 1999, were served upon the Respondent, Henry Hemsley, M.D. **KENDRICK SEARS, M.D. (Chair), JOHN PRIOR, M.D. and EUGENIA HERBST**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee (hereinafter the Committee) in this matter pursuant to Section 230(10)(e) of the Public Health Law. **JEFFREY W. KIMMER, ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Jude Brearton Mulvey, Esq., Assistant Counsel. The Respondent appeared by Irwin Birnbaum, Esq. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

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

PROCEDURAL HISTORY

Date of Notice of

Hearing and Statement of Charges:

April 16, 1999

Dates of Hearing:

April 27, 1999

May 14, 1999

Deliberations Held:

May 14, 1999

STATEMENT OF CASE

By an Order dated April 16, 1999, the Commissioner of **Health** summarily suspended the medical license of the Respondent, Henry Hemsley, M.D., upon a finding that his continued practice of medicine would constitute an imminent danger to the health of the people of this state. More specifically, the Statement of Charges alleged ten specifications of professional misconduct, including allegations of the fraudulent practice of medicine, practicing while ones license is suspended, willfully failing to comply with state laws or rules, moral unfitness and practicing beyond the scope permitted by law. Following the hearing on this matter the Committee issued its report on imminent danger. The Committee recommended that the summary suspension of Respondent's license be maintained pending the ultimate resolution of the case. By an Order dated June 16, 1999, the Executive Deputy Commissioner ordered that the summary suspension be continued. A copy of the Amended 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. Unless otherwise noted, all Findings and Conclusions herein are the unanimous determination of the Committee. Numbers in parentheses refer to transcript page numbers and/or exhibits. These citations represent evidence found persuasive by the Committee in arriving at a particular finding. All Findings of Fact made by the Committee were established by at least a preponderance of the evidence.

1. HENRY HEMSLEY, M.D., (hereinafter " Respondent"), was authorized to practice medicine in New York State on October 31, 1969, by the issuance of license number 105106 by the New York State Education. (Pet. Ex. 3)
2. The Respondent voluntarily signed a Consent Agreement upon which an Order dated December 22, 1997, was issued. The Consent Agreement contained an admission by the Respondent that he was convicted of commission of a crime in another state and the underlying conduct would, if committed in New York, constitute a crime. The Respondent agreed to a 3 year suspension of his license, which was stayed, subject to compliance with the terms of probation annexed to the Order. The terms included the monitoring of the Respondent by a qualified health care professional acting as the Respondent's sobriety monitor. (Pet. Ex. 5)
3. The Respondent failed to obtain a sobriety monitor. On or about January 19, 1999, after a hearing commencing on December 8, 1998, pursuant to Public Health Law § 230 (19), an Order was issued suspending the Respondent's license to practice for 30 days with his suspension continuing until the Office of Professional Medical Conduct approved a sobriety monitor for him. Upon the lifting of the suspension the Respondent's license would be on probation for a period of 3 years. The Respondent was served with this Order. (Pet. Ex. 4)
4. On or about February 17, 1999, the Respondent provided medical care to Patient A, which included the prescribing of a controlled substance, without advising Patient A that his license was suspended. (Pet. Exs. 10 & 11)
5. On or about February 17, 24, March 10, 24 and April 7, 1999, the Respondent provided medical care to Patient B without advising Patient B that his license was suspended. (Pet. Ex. 12)

6. On or about March 31, 1999, the Respondent provided medical care to Patient C, which included the prescribing of medication, without advising Patient C that his license was suspended. (T. 108-114; Pet. Exs. 8 & 13)
7. On or about February 3, March 3 and 31, 1999, the Respondent provided medical care to Patient D without advising Patient D that his license was suspended. (Pet. Ex. 14)
8. On or about February 3, March 3 and 31, 1999, the Respondent provided medical care to Patient E without advising Patient E that his license was suspended. (Pet. Ex. 15)
9. On or about April 5, 1999, the Respondent provided medical care to Patient F, which included the prescribing of medication, without advising Patient F that his license was suspended. (Pet. Exs. 6,7 & 13)
10. On or about April 20, 1999, the Respondent was served with a Commissioner's Order and Notice of Hearing which suspended the Respondent's license to practice medicine in New York. (Pet. Ex. 2)
11. Subsequent to being served with the Order suspending him from the practice of medicine the Respondent continued to practice medicine in New York and provided medical care to Patients E, G, H, I and J. (T. 288-291; Pet. Exs. 22, 23, 24 & 25)

CONCLUSIONS

The following conclusions were made pursuant to the Findings of Fact listed above. The Hearing concluded that the following Factual Allegations were proven by a preponderance of the evidence (the paragraphs noted refer to those set forth in the Statement of Charges, Factual Allegations). The citations in parentheses refer to the Findings of Fact (supra), which support each Factual Allegation:

- Paragraph 1.:** (2);
- Paragraph 2.:** (3);
- Paragraph 3.:** (3);
- Paragraph 4.:** (3);
- Paragraph 5.:** (4);
- Paragraph 5.a.:** (4);
- Paragraph 5.b.:** (4);
- Paragraph 5.c.:** (4);
- Paragraph 6.:** (5);
- Paragraph 7.:** (6);
- Paragraph 7.a.:** (6);
- Paragraph 7.b.:** (6);
- Paragraph 7.c.:** (6);
- Paragraph 8.:** (7);
- Paragraph 9.:** (8);
- Paragraph 10.:** (9);
- Paragraph 10.a.:** (9);
- Paragraph 10.b.:** (9);
- Paragraph 11.:** (10);
- Paragraph 12.:** (11).

The Committee further concluded that the following Specifications should **be sustained**. The citations in parentheses refer to the Factual Allegations from the Statement of Charges, which support each specification.:

PRACTICING THE PROFESSION FRAUDULENTLY

First through Seventh Specifications: (Paragraphs 1-11)

PRACTICING THE PROFESSION WHILE THE LICENSE IS SUSPENDED

Eighth Specification: (Paragraphs 1-11);

WILLFUL FAILURE TO COMPLY

Ninth Specification: (Paragraphs 2, 4, 5., 5.a.-c., 6., 7.,7.a.-c., 8., 9., 10. and 11.);

PRACTICING BEYOND THE SCOPE PERMITTED BY LAW

Eleventh Specification: (Paragraphs 1-11).

The Committee determined that the **Tenth Specification** was not sustained by the evidence.

DISCUSSION

Respondent was charged with violating five subdivisions of professional misconduct within the meaning of Education Law §6530. This statute sets forth numerous forms of conduct which constitute professional misconduct, but does not provide definitions of the various types of misconduct. During the course of its deliberations on these charges, the Committee consulted a memorandum from the General Counsel for the Department of Health. This document, entitled "Definitions of Professional Misconduct Under the New York Education Law", sets forth suggested definitions for several categories of misconduct. The only one applicable in this case is the definition for the fraudulent practice of medicine.

That definition is as follows:

Fraudulent Practice of the Profession is an intentional misrepresentation or concealment of a known fact. An individual's knowledge that he/she is making a misrepresentation or concealing a known fact with the intention to mislead may properly be inferred from certain facts.

Using the above-referenced definition in its deliberations, the Committee unanimously concluded, by a preponderance of the evidence, that the specifications of professional misconduct relating to the fraudulent practice of medicine should be sustained.

The Petitioner presented two witnesses from the Department of Health who work in the bureau within the Department that deals with physicians whose license is on probation. There was no evidence of any bias on their part or of their unsuitability as witnesses. The testimony of these witnesses proved conclusively that the Respondent knew of the requirement to obtain a sobriety monitor in order to enable him to practice and that he failed to obtain such a monitor. The Committee also found that the documentary evidence proved conclusively that the Respondent had been given ample time to get such a monitor and had failed to do so, but continued to practice medicine in violation of his initial and subsequent probation. Furthermore, upon being summarily suspended from the practice of medicine he nevertheless continued to practice.

The Committee found the Petitioner had met its burden of proof with regard to specifications one through nine and eleven. The Committee inferred from the evidence that the Respondent knew his license to practice was suspended and intended to mislead by not telling his patients of his license suspension while continuing to provide them with medical services.

The Committee determined that the documentary evidence established that the Respondent's license was placed on probation under terms which required him to get a sobriety monitor to practice. He failed to do this but still practiced. A probation violation hearing was held and the Respondent was found to be in violation of his probation and his license was suspended until he complied with the terms of probation. Nevertheless, he continued to practice. The Commissioner then summarily suspended his license and once again the Respondent continued to practice medicine.

DETERMINATION AS TO PENALTY

The Committee, pursuant to the Findings of Fact and Conclusions set forth above, unanimously determined that Respondent's license to practice medicine in New York State should **be revoked**. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The record in this case clearly established that Respondent violated the terms of his initial and subsequent probation and the summary suspension. In his testimony the Respondent exhibited no contrition and continued to voice his opinion that the probation terms which required him to have a sobriety monitor, were unacceptable. This position is indicative of the Respondent's unwillingness to accept the Board's authority over his license to practice medicine. The Committee concluded that to allow the Respondent to retain his license in light of his conduct and his lack of willingness to abide by the laws governing the maintenance of his license to practice medicine would pose a danger to the public. The Committee also based its determination to revoke on the requirement that the Respondent's ability to practice safely will be thoroughly reviewed if he seeks restitution of his license. The Committee concluded that revocation was necessary in order to insure the safety of the citizens of this state.

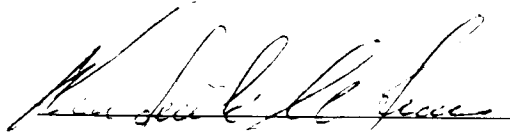
ORDER

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

1. The **First through Ninth and Eleventh Specifications** of professional misconduct, as set forth in the Amended Statement of Charges (Appendix 1) are **SUSTAINED**;
2. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**.

DATED: New York, New York

June 25, 1999



KENDRICK SEARS, M.D. (Chair)
JOHN PRIOR, M.D.
EUGENIA HERBST

TO:

Jude Brearton Mulvey, Esq.
Assistant Counsel
NYS Dept. of Health
Bureau of PMC
Empire State Plaza
Corning Tower - Rm 2509
Albany, New York 12237-0032

Irwin Birnbaum, Esq.
Merchant's Bank Building
220 South Warren St.
Syracuse, New York 13202

Henry Hemsley, M.D.
6370 County Rd.
Norwich, New York 13815

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

-----X

IN THE MATTER : COMMISSIONER'S
OF : ORDER AND
HENRY HEMSLEY, M.D. : NOTICE OF HEARING

-----X

TO: HENRY HEMSLEY, M.D.
6370 County Rd 32
Norwich, New York 13815

The undersigned, Dennis P. Whalen, Executive Deputy Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by Henry Hemsley, M.D., the Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law Section 230(12), that effective immediately, Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of

the State Board for Professional Medical Conduct on the 27th day of April, 1999 at the Best Western/Syracuse Airport Inn at Hancock International Airport, Syracuse, New York 13212 and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180

(518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

**THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW
YORK PUBLIC HEALTH LAW SECTION 230-a. YOU
ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT
YOU IN THIS MATTER.**

DATED: Albany, New York

4.16 , 1999



DENNIS P. WHALEN
Executive Deputy Commissioner

Inquiries should be directed to:

Jude Brearton Mulvey
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237-0032
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
HENRY HEMSLEY, M.D. : CHARGES

-----X

HENRY HEMSLEY, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 31, 1969 by the issuance of license number 105106 by the New York State Education Department.

FACTUAL ALLEGATIONS

1. On or about December 22, 1997, the New York State Board for Professional Medical Conduct ("the Board") issued Consent Order #BPMC 97-325 (the "underlying order") wherein HENRY HEMSLEY, M.D., admitted guilt to the Specification of Misconduct of having been convicted of a crime in another state which act, if committed in New York State, would constitute a crime. The penalty imposed pursuant to the Board Order was a thirty-six month suspension of his license to practice medicine, such suspension to be stayed in its entirety "subject to [HENRY HEMSLEY, M.D.'s] compliance with the... terms of probation." Among the terms of Respondent's probation was the requirement that he be monitored by a qualified health care professional acting as a sobriety monitor.

2. Between December 22, 1997 and December 8, 1998, Respondent failed to obtain a sobriety monitor. Accordingly, a violation of probation hearing commenced on December 8, 1998 wherein Respondent appeared and was represented by counsel.

3. On or about January 19, 1999, a Hearing Committee for the Board determined by BPMC Order #99-13 (the "suspension order") that Respondent had violated his probation by failing to obtain and/or be subject to monitoring by a Sobriety Monitor as required by the probation terms and conditions. Respondent's license to practice medicine was suspended for a minimum of thirty days and until such time as a monitor was approved by the Office of Professional Medical Conduct, and he was placed on probation for a period of three years. The Hearing Committee also readopted the terms and conditions of probation of BPMC Order No. 97-325.

4. As of April 15, 1999, Respondent had still not obtained an approved Sobriety Monitor.

5. Respondent, on or about February 17, 1999, provided medical care to Patient A (patients are identified in Appendix) at his office at 6370 County Rd. 32, Norwich, New York ("the Norwich office"). Among other things, Respondent wrote a prescription for Patient A for a controlled substance.

- a. Respondent provided medical care to Patient A in contravention of the suspension order.
- b. Respondent provided medical care to Patient A without advising Patient A that his license was and remains suspended.
- c. Respondent intentionally misrepresented that he had authority to issue prescriptions when, in fact, he was suspended from the practice of medicine when he wrote the prescription and Respondent knew such facts.

6. Respondent, on or about February 1, February 8, February 17, February 24, March 10, March 24 and/or April 7, 1999, provided medical care to Patient B in contravention of the suspension order and/or without advising Patient B that Respondent's license to practice medicine was and continues to be suspended.

7. Respondent, on or about March 31, 1999, provided medical care to Patient C at his Norwich office. Respondent, among other things, wrote a prescription for Viagra for Patient C.

- a. Respondent provided medical care to Patient C in contravention of the suspension order;
- b. Respondent provided medical care to Patient C without advising Patient C that his license was and remains suspended; and/or
- c. Respondent intentionally misrepresented that he had authority to issue prescriptions when, in fact, he was suspended from the practice of medicine when he wrote the prescription and Respondent knew such facts.

8. Respondent, on or about February 2, March 3 and/or March 31, 1999, provided medical care to Patient D in contravention of the suspension order and/or without advising Patient D that Respondent's license to practice medicine was and continues to be suspended.

9. Respondent, on or about February 3, March 3 and/or March 31, 1999, Respondent provided medical care to Patient E in contravention of the suspension order and/or without advising Patient E that Respondent's license to practice medicine was and continues to be suspended.

10. Respondent, on or about April 5, 1999, provided medical care to Patient F at his Norwich office. Respondent, among other things, wrote two prescriptions for Patient F on April 5, 1999.

- a. Respondent provided medical care to Patient F in contravention of the suspension order;
- b. Respondent provided medical care to Patient F without advising Patient F that his license was and continues to be suspended;
- c. Respondent intentionally misrepresented that he had authority to issue prescriptions, when, in fact, he was suspended from the practice of medicine when he wrote two prescriptions to Patient F and Respondent knew such facts.

FIRST THROUGH SEVENTH SPECIFICATIONS

PRACTICING THE PROFESSION FRAUDULENTLY OR BEYOND
ITS AUTHORIZED SCOPE

Respondent is charged with professional misconduct under N.Y. Education Law Section 6530(2) by reason of his having practiced the profession fraudulently or beyond its authorized scope, in that Petitioner charges:

1. The facts in Paragraphs 1,2,3,4,5 and 5.a, 5 and 5.b and/or 5 and 5.c.
2. The facts in Paragraphs 1,2,3,4, and/or 6.
3. The facts in Paragraphs 1,2,3,4,7 and 7.a, 7 and 7.b and/or 7 and 7.c.
4. The facts in Paragraphs 1,2,3,4 and/or 8.
5. The facts in Paragraphs 1,2,3,4 and/or 9.
6. The facts in Paragraphs 1,2,3,4,10 and 10.a, 10 and 10.b and/or 10 and 10.c.

SEVENTH SPECIFICATION

PRACTICING THE PROFESSION WHILE THE
LICENSE IS SUSPENDED

Respondent is charged with professional misconduct under N.Y. Education Law Section 6530(12) by reason of his having practiced the profession while his license is suspended, in that Petitioner charges:

7. The facts in Paragraphs 1,2,3,4,5 and 5.a, 5 and 5.b, 5 and 5.c, 6,7 and 7.a, 7 and 7.b, 7 and 7.c, 8, 9, 10 and 10.a, 10 and 10.b and/or 10 and 10.c.

EIGHTH SPECIFICATION

WILLFUL FAILURE TO COMPLY

Respondent is charged with professional misconduct under N.Y. Education Law Section 6530(16) by reason of his willful failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine, in that Petitioner charges:

8. The facts in paragraphs 1,2,3,4,5 and 5.a, 5 and 5.b, 5 and 5.c, 6, 7 and 7.a, 7 and 7.b, 7 and 7.c, 8, 9, 10 and 10.a, 10 and 10.b and/or 10 and 10.c.

NINTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Education Law Section 6530(20) by reason of having demonstrated conduct in the practice of medicine which evidences moral unfitness, in that Petitioner charges:

9. The facts in paragraphs 1,2,3,4,5 and 5.a, 5 and 5.b, 5 and 5.c, 6, 7 and 7.a, 7 and 7.b, 7 and 7.c, 8, 9, 10 and 10.a, 10 and 10.b and/or 10 and 10.c.

TENTH SPECIFICATION

PRACTICING BEYOND SCOPE

Respondent is charged with professional misconduct under N.Y. Education Law Section 6530(24) by reason of his practicing or offering to practice medicine beyond the scope permitted by law, in that Petitioner charges:

10. The facts in paragraphs 1,2,3,4,5 and 5.a, 5 and 5.b, 5 and 5.c, 6, 7 and 7.a, 7 and 7.b, 7 and 7.c, 8, 9, 10 and 10.a, 10 and 10.b and/or 10 and 10.c.

DATED: *April 16,* 1999
Albany, New York

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