



Board for Professional Medical Conduct

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

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

C. Maynard Guest, M.D.
Executive Secretary

September 6, 1994

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Frank A. Motlagh, M.D.
Alvarado Medical Plaza
5555 Reservoir Drive
Suite 308
San Diego, CA 92120

RE: License No. 115285
Effective Date: 9/13/94

Dear Dr. Motlagh:

Enclosed please find Order #BPMC 94-176 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

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

Enclosure

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

-----X

IN THE MATTER :
OF : ORDER
FRANK A. MOTLAGH, M.D. : BPMC 94-176

-----X

Upon the application of Frank A. Motlagh, M.D.,
Respondent, for Consent Order, which application is made a part
hereof, it is

ORDERED, that the application and the provisions
thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall take effect as of the
date of the personal service of this order upon Respondent, upon
receipt by Respondent of this order via certified mail, or seven
days after mailing of this order by certified mail, whichever is
earliest.

SO ORDERED,

DATED: 1 September 1994

Charles J. Vacanti
Charles J. Vacanti, M.D.
Chairperson
State Board for Professional
Medical Conduct

I admit guilt to the First Specification in full satisfaction of the charges against me.

I hereby agree to the penalty of five years suspension, stayed, five years probation. A copy of the Terms of Probation is annexed hereto, made a part hereof, and marked as Exhibit "B".

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

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

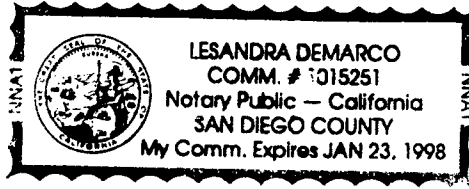
Frank A. Motlagh

FRANK A. MOTLAGH, M.D.
RESPONDENT

Sworn to before me this
23rd day of August, 1994.

Lesandra Demarco

NOTARY PUBLIC



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

-----X
: APPLICATION
IN THE MATTER :
: FOR
OF :
: CONSENT
FRANK A. MOTLAGH, M.D. :
: ORDER
-----X

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

Date: 8/23/94 Frank A. Motlagh
FRANK A. MOTLAGH, M.D.
RESPONDENT

Date: 8/18/94 David Rosenberg
DAVID ROSENBERG, ESQ.
ATTORNEY FOR RESPONDENT

Date: 8/25/94 Marcia E. Kaplan
MARCIA E. KAPLAN
ASSOCIATE COUNSEL
BUREAU OF PROFESSIONAL
MEDICAL CONDUCT

Date: Sept 6, 1994

Kathleen M. Tanner
KATHLEEN M. TANNER
DIRECTOR
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Date: 1 September 1994

Charles J. Vacanti
CHARLES J. VACANTI, M.D.
CHAIRPERSON
STATE BOARD FOR
PROFESSIONAL MEDICAL CONDUCT

EXHIBIT "A"

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

-----X
IN THE MATTER : STATEMENT
OF : OF
FRANK A. MOTLAGH, M.D. : CHARGES
-----X

FRANK A. MOTLAGH, M.D., the Respondent, was authorized to practice medicine in New York State on January 22, 1973 by the issuance of license number 115285 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine from Alvarado Medical Plaza, 5555 Reservoir Drive, Suite 308, San Diego, CA 92120 during the period from January 1, 1993 through December 31, 1994.

FIRST SPECIFICATION

**HAVING BEEN FOUND GUILTY OF
MISCONDUCT IN ANOTHER STATE**

1. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(b) (McKinney Supp. 1994) in that he has been found guilty of improper professional practice or professional 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, specifically:

On or about October 20, 1993, the California Board of Medical Quality Assurance (California Board) issued a Stipulation in Settlement, Decision and Order, effective November 19, 1993, revoking Respondent's license, staying the revocation, and imposing a five year probationary term with detailed conditions, including the following: successful completion of an oral clinical examination; specified continuing medical education including coursework in General and/or Thoracic Surgery; an ethics course; community service; interviews with the California Board's medical consultant; compliance with all laws and the probationary terms; and quarterly reports regarding compliance with the terms of probation.

The California Board found the Respondent guilty of unprofessional conduct based upon Respondent's admissions that after an operation he performed on or about February 4, 1987, Respondent became aware that he had left a chest retractor blade in patient L.P.'s chest, that notwithstanding this knowledge, Respondent failed to inform patient L.P., or his family, of the problem, and that Respondent further failed to take the necessary surgical steps to remove the chest retractor blade from patient L.P.'s chest. Based upon these findings, the California Board found Respondent guilty of unprofessional conduct under Cal. Bus. & Prof. Code Sec. 2234, as follows: repeated negligent acts, under Sec. 2234(c); and having committed acts of dishonesty or corruption which are substantially related to the qualifications, functions, or duties of a physician or surgeon, under Sec. 2234(e).

These acts, if committed within New York State, would constitute professional misconduct under N.Y. Educ. Law Sec. 6530(2) (practicing the profession fraudulently) and/or Sec. 6530(3)

(practicing the profession with negligence on
more than one occasion.)

DATED: NEW YORK, NEW YORK

June 1, 1994



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

TERMS OF PROBATION

1. FRANK A. MOTLAGH, M.D., during the period of probation, shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession;
2. That Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Corning Tower Building, 4th Floor, Empire State Plaza Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;
6. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant

to the order of the Division of Medical Quality of the Medical Board of California;

7. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non renewal of permits or licenses (Tax Law section 171(27); State Finance Law section 18; CPLR section 5001; Executive Law section 32).
8. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.