



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

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

October 27, 1992

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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Angelito L. Sebollena, M.D.  
8502 Seventh Avenue  
Brooklyn, New York 11228

**RE: In the Matter of Angelito Sebollena, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. BPMC-92-92) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 than 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), "(t)he 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  
Corning Tower - Room 2503  
Empire State Plaza  
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.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:crc  
Enclosure

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

-----X  
IN THE MATTER : DETERMINATION  
OF :  
AND  
ANGELITO L. SEBOLLENA, M.D. : ORDER  
-----X

ORDER NO. BPMC-92-92

A Commissioner's Order and Notice of Hearing, dated June 16, 1992 and a Statement of Charges, dated June 17, 1992, were served upon the Respondent, Angelito L. Sebollena, M.D. **ROBIN N. BUSKEY, R.P.A. (Chair), NOEL L. COHEN, M.D., and HONG CHUL YOON, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Silvia P. Finkelstein, Esq., Associate Counsel. The Respondent appeared by Joseph R. Benfante, Esq. and Crupain & Greenfield, Paul Greenfield, Esq., of Counsel. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

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

**PROCEDURAL HISTORY**

Date of Service of Commissioner's  
Order, Notice of Hearing and  
Statement of Charges: June 22, 1992  
Answer to Statement of Charges: None

Pre-Hearing Conference:	June 26, 1992
Dates of Hearings:	July 1, 1992 July 23, 1992 July 30, 1992 September 30, 1992
Hearing Committee's Report on Imminent Danger:	September 1, 1992
Date of Commissioner's Interim Order Continuing Summary Suspension:	September 12, 1992
Received Petitioner's Proposed Findings of Fact, Conclusions of Law and Recommendation:	September 30, 1992
Received Respondent's Proposed Findings of Fact and Conclusions of Law:	September 22, 1992
Witnesses for Department of Health:	Patient A Patient B Mrs. B
Witnesses for Respondent:	None
Deliberations Held:	October 5, 1992

**STATEMENT OF CASE**

By an Order dated June 16, 1992, the Commissioner of Health summarily suspended the medical license of the Respondent, Angelito L. Sebollena, 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 accompanying Statement of Charges alleged nine specifications of professional misconduct, including allegations of engaging in conduct in the practice of medicine which evidences moral unfitness to practice

the profession, willfully harassing, abusing or intimidating a patient either physically or verbally, gross negligence, negligence on more than one occasion, and failing to maintain accurate records.

Following hearings on this matter, which commenced on July 1, 1992 and concluded on September 1, 1992, the Hearing Committee issued its report on imminent danger, on the record. The Hearing Committee recommended that the summary suspension of Respondent's license be maintained pending the ultimate resolution of the case. By an Order dated September 12, 1992, the Commissioner ordered that the summary suspension be continued.

#### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered rejected in favor of the cited evidence.

1. Angelito L. Sebollena, M.D. (hereinafter "Respondent") was authorized to practice medicine in New York State on January 23, 1973 by the issuance of license number 115411 by the New York State Education Department. (Pet. Ex. #2).

2. Respondent is currently registered with the New York State Education Department to practice medicine for the period

January 1, 1991 through December 31, 1992 from 8502 Seventh Avenue, Brooklyn, New York 11228. (Pet. Ex. #2).

3. Respondent, a surgeon, maintains a private practice at 8502 Seventh Avenue, Brooklyn, New York. (26-27, 183; Pet. Ex. #6, Pet. Ex. #7).

#### **Patient A**

4. Patient A, a twenty-four year old male, had been under the care of Respondent since on or about July 17, 1987. Respondent performed an exploratory laparotomy on Patient A on or about November 4, 1991 to remove fibrous adhesions from his abdomen. (22-26; Pet. Ex. #6).

5. Following his discharge from the hospital, Patient A went to Respondent's office on two occasions for follow-up care. On or about November 24, 1991, Patient A went to Respondent's office complaining of severe pain on the right side of his chest. (28-29, 31, 80-81, 265-267; Pet. Ex. #6).

6. Respondent injected Versed (a short-acting central nervous system depressant) as a single bolus, intravenously, into Patient A. Respondent told Patient A that his memory of events after the injection would be impaired. Respondent indicated in Patient A's chart that Versed was administered as a muscle relaxant. Versed is a strong sedative, and not a muscle relaxant. (32-34, 111-112, 135, 412, 422; Pet. Ex. ##6, 8, and 13).

7. Shortly after Respondent injected Versed into Patient A, the patient felt unable to move or speak, but could see, hear and feel a little bit. (34-35, 119).

8. Respondent fondled Patient A's penis. Respondent then kissed Patient A on the mouth while masturbating with one hand. Respondent then took Patient A's hand and pressed it against Respondent's penis. Thereafter, Respondent performed oral sodomy on Patient A, and masturbated again. (36-40, 99-100, 127-130).

9. Thereafter, Respondent left the examining room. Once Patient A was able to move, he slid off the examining table, got dressed and left Respondent's office. Patient A reported this incident to the police that same day. Police officers took Patient A to Victory Memorial Hospital to be examined. A urine analysis performed on Patient A yielded positive results for benzodiazepine metabolites. (111-112, 131, 132; Pet. Ex. #5).

10. Respondent did not obtain an adequate history or perform an adequate physical examination, prior to intravenously injecting Patient A with Versed. (421-423; Pet. Ex. #6).

11. Respondent inappropriately injected Patient A with Versed with an intravenous bolus, and failed to monitor Patient A's condition while under the influence of the drug. (415; Pet. Ex. ##6, 8).

12. Respondent's medical record entry for the November 24, 1992 office visit did not document Patient A's vital signs, the route of administration of the Versed, where and how it was



injected, the patient's condition while under the influence of the drug, whether any monitoring was done, and/or the patient's condition after recovery. (422, 425-426; Pet. Ex.. #6).

13. Respondent failed to keep medical records which accurately represent the condition of Patient A and the care rendered to him. (421-428; Pet. Ex. #6).

**Patient B**

14. Patient B, a twenty-three year old male, had been under the care of Respondent since on or about 1986. Respondent had been Patient B's family's physician for a period of at least nine years. (178, 278-279; Pet. Ex. #7).

15. On or about October 27, 1991, Patient B called Respondent complaining of anxiety, sweating, difficulty breathing, red blotches, dizziness and tightness of the chest, after inhaling cocaine. Respondent told Patient B to meet him at his office at about 11:30 p.m. When Patient B arrived at Respondent's office, only Respondent was there. (182-183, 250-251, 270).

16. Respondent administered an intravenous injection to Patient B. Soon after, Patient B felt groggy and unable to move. Respondent kissed Patient B on the mouth and fondled his genital area. (184-185).

17. Respondent was aware that Patient B had undergone in-patient treatment for cocaine dependency from on or about October 30, 1991 to November 27, 1991, at Conifer Park, Glenridge Road, Scotia, New York. (186, 272; Pet. Ex. #7, pp. 5-25).

18. On or about December 20, 1991, Patient B used cocaine again. He called Respondent complaining of anxiety, tightness of the chest, rapid heart beat, and fear of a heart attack. Respondent told Patient B to come to his office. When Patient B arrived, only Respondent was there. (187, 273).

19. Respondent intravenously injected Patient B with some substance. Soon after, Patient B felt groggy, weak, powerless and unable to move. Patient B felt his pants being removed by Respondent. Respondent performed oral sodomy on Patient B. Patient B did not tell anyone about these events because he felt embarrassed and afraid he would not be believed. (188-190, 228-229).

20. On or about January 4, 1992 Patient B again used cocaine. Patient B called Respondent complaining of anxiety and symptoms similar to those experienced during his prior relapses. Patient B went to Respondent's office. Respondent again gave Patient B an intravenous injection. Soon after, Patient B felt "like dead" and unable to move. Respondent lay on top of Patient B and pressed up and down against him. (190-192, 274).

21. On or about February 12, 1992, Patient B again relapsed into cocaine use. Patient B called Respondent from his mother's house, complaining of anxiety and similar symptoms after having inhaled cocaine. Respondent met Patient B at his mother's house and told Patient B that he could not treat him at his office because "people were watching him". Respondent took Patient B to

Respondent's apartment for treatment. Respondent administered an intravenous injection to Patient B. Soon thereafter, Patient B felt groggy and unable to move. Respondent lay on top of Patient B and pressed back and forth against him. (193, 196-198, 227, 276-277).

22. On or about February 23, 1992, Patient B told his wife, Mrs. B, that he suspected Respondent had been sexually abusing him, after injecting him with drugs. Patient B and his wife decided to ask Respondent to come to their house to treat Patient B. Patient B called Respondent, told him that he had inhaled cocaine and reported symptoms of anxiety, rapid heartbeat, sweating, and told him that he needed a shot to go to sleep. Mrs. B hid in the bedroom closet to observe what might transpire. (197-200, 226, 269, 282, 308, 319, 387).

23. Respondent arrived at Patient B's house at approximately 11:30 p.m. on February 23, 1992. Patient B's wife was hidden in the closet. Respondent asked Patient B to lay down on the bed and then administered an intravenous injection of Versed. Soon thereafter, Patient B felt very groggy. From her hidden position, Mrs. B observed Respondent rub Patient B's chest with his hands. Respondent then pulled down Patient B's shorts and underwear, put his mouth on Patient B's penis and performed oral sodomy on him. (200, 284-286, 289-291, 388; Pet. Ex. #10).

24. Mrs. B confronted Respondent, who was unaware of her presence, called her friend Mrs. Chiarello, who came to the house.

They then called the police. Prior to the arrival of the police, Respondent offered Patient B and Mrs. B \$30,000 and/or \$50,000. The police officers who responded to the call confiscated the syringe and bottle used by Respondent to inject Patient B. The Police Laboratory Analysis Report confirmed that the substance seized was midazolam (Versed). (201-203, 291-296, 299, 354, 357-358, 363, 385, 389, 390, 392, 394; Pet. Ex. ##3, 13A and 13B).

25. Respondent injected Patient B with Versed, as a single bolus intravenous injection, on or about October 27, 1991, December 1991, January 4, 1992, February 12, 1992, and February 23, 1992. On each occasion, Respondent failed to adequately monitor Patient B's condition while under the influence of the drug. (196, 227, 255-256, 289).

26. On each of the above occasions, prior to injecting Patient B intravenously with Versed, Respondent failed to obtain an adequate history and/or to conduct an adequate physical examination. (249-250, 346; Pet. Ex. #7).

27. On each of the above occasions, Respondent did not document in Patient B's medical record the patient's vital signs, how and where the Versed was injected, the patient's condition while under the influence of the drug, whether any monitoring was done, and/or the patient's condition after recovery. (250, 255-256, 289, 346, 429-432, 434-435; Pet. Ex. #7).

28. Respondent failed to keep medical records which accurately represent the condition of Patient B and the care rendered to him. (434-435; Pet. Ex. #7).

**Medical Findings**

29. Versed (midazolam) is a short-acting benzodiazepine central nervous system depressant. It has sedative and hypnotic effects, often causing amnesia regarding events following administration of the drug. The onset of effects is rapid and includes, among others, sedation, drowsiness, slurring of speech, and amnesia. Versed is four or five times more potent than Valium. The effects of Versed on the central nervous system are dependent on the dose administered, route of administration, and the presence or absence of other medications. (412-413, 416-417, 445, 447, 459-460; Pet. Ex. #8).

30. Serious and life-threatening cardio-respiratory adverse events have been reported following the administration of Versed. It has been known to cause respiratory depression, hypoxia, respiratory arrest, and cardiac output depression. (414-416, 420-421, 442; Pet. Ex. #8).

31. Prior to the administration of Versed, an appropriate history and physical examination of the patient should be conducted, including some evaluation of the patient's food intake and vital signs, including blood pressure, heart rate and respirations. (422-423).

32. It is essential that the vital signs of patients to whom Versed has been administered be monitored carefully, including blood pressure, heart rate, mental status, respiratory status, respiratory rate, depth of breathing and pulse oximetry. (416-417, 443; Pet. Ex. #8).

33. It is inappropriate and dangerous to administer Versed as a single bolus injection. (415; Pet. Ex. #8).

34. Intravenous Versed should be used only in settings that provide for continuous monitoring of respiratory and cardiac function. Immediate availability of resuscitative drugs and equipment and personnel trained in their use should be assured. (415-416, 420-421, 426-427, 442, 444; Pet. Ex. #8).

#### **CONCLUSIONS OF LAW**

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee concluded that the following Factual Allegations should be sustained:

- (1) Paragraphs A, A.1, A.2 and A.3: (1 - 13; 29 - 34), and
- (2) Paragraphs B, B.1, B.2, B.3 and B.4: (1 - 3; 14 - 34).

The Hearing Committee further concluded that the following Specifications should be sustained. The citations in parentheses refer to the Factual Allegations which support each specification:

--First Specification: (Paragraphs A, A.1 and A.2);

- Second Specification: (Paragraphs B, B.1(a), B.1(b), B.1(c), B.1(d), B.2 and B.3);
- Third Specification: (Paragraphs A, A.1 and A.2);
- Fourth Specification: (Paragraphs B, B.1, B.1(a), B.1(b), B.1(c), B.1(d), B.2 and B.3);
- Fifth Specification: (Paragraphs A and A.1);
- Sixth Specification: (Paragraphs B and B.3);
- Seventh Specification: (Paragraphs B, B.1, B.1(a), B.1(b), B.1(c), B.1(d), B.2 and B.3);
- Eighth Specification: (Paragraphs A and A.3), and
- Ninth Specification: (Paragraphs B and B.4).

#### **DISCUSSION**

Respondent is charged with nine specifications alleging professional misconduct within the meaning of Education Law Section 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 Hearing Committee consulted a memorandum prepared by Peter J. Millock, Esq., 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 gross negligence, negligence, gross incompetence, incompetence, and the fraudulent practice of medicine.

The following definitions were utilized by the Hearing Committee during its deliberations on two specifications alleging gross negligence and one specification alleging negligence on more than one occasion:

(1) **Negligence** is a failure to exercise the care that would be exercised by a reasonably prudent licensee under the circumstances.

(2) **Gross Negligence** is a failure to exercise the care that would be exercised by a reasonably prudent licensee under the circumstances, and which failure is manifested by conduct that is egregious or conspicuously bad.

Respondent was also charged with two specifications of willfully harassing, abusing or intimidating a patient either physically or verbally, in violation of Education Law Section 6530(31). Neither the statute, nor the above-mentioned memorandum, define the terms "willful" and "abuse". Therefore, the Hearing Committee looked to other sources for guidance.

The Committee consulted Black's Law Dictionary (5th Ed.). Black's (at page 1434) defines "willful", in pertinent part, as:

"...Proceeding from a conscious motion of the will; voluntary. Intending the result which actually comes to pass; designed; intentional; not accidental or involuntary... A willful act may be described as one done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently...."



Black's Law Dictionary also defines the term "abuse", at page 10:

"...Everything which is contrary to good order established by usage. Departure from reasonable use. Immoderate or improper use. Physical or mental maltreatment...."

Using the above-referenced definitions as a framework for its deliberations, the Hearing Committee unanimously concluded, by a preponderance of the evidence, that the nine specifications of misconduct alleged by the Department had been sustained. The rationale for the Committee's conclusions regarding each specification of misconduct is set forth below.

**Engaging In Conduct In The Practice of Medicine Which Evidences Moral Unfitness To Practice The Profession**

The Hearing Committee carefully evaluated the testimony of the witnesses presented by the Department, particularly that of Patients A and B and Mrs. B. The Hearing Committee found the witnesses to be credible. In each instance, their testimony was direct and forthright, both on direct and cross examination. Patients A and B, who had no prior knowledge of each other's circumstances, told strikingly similar stories. Both testified that Respondent, under the guise of providing medical treatment, injected them with an intravenous injection, which left the patients conscious but unable to move or speak. Following the administration of these injections, Respondent then sexually abused each patient. He abused Patient B on four occasions.

Respondent did not present any evidence or testimony of any kind to refute the Department's allegations. Given the Hearing Committee's findings regarding the credibility of the Department's witnesses, and the total absence of credible evidence presented by Respondent, the Hearing Committee concluded that Respondent did sexually abuse Patient A and Patient B in the manner set forth in the Statement of Charges.

Conduct which evidences moral unfitness can arise either from conduct which violates a trust related to the practice of the profession or from activity which violates the moral standards of the professional community to which he belongs. The Hearing Committee unanimously concluded that Respondent's actions constitute a grave violation of professional trust. A physician is expected to subordinate his needs and desires to the best interests of his or her patients. Respondent deliberately placed Patient A and Patient B in a position of helplessness and then sexually abused them for his own gratification. Given Respondent's demonstrated moral unfitness to practice the profession of medicine, the Hearing Committee sustained the First and Second Specifications.

**Willfully Harassing, Abusing Or Intimidating A Patient  
Either Physically Or Verbally**

The evidence presented at this hearing clearly established, by a preponderance of the evidence, that Respondent, under the pretext of providing medical care, rendered Patient A and Patient B

helpless, through the administration of intravenous drugs, and then sexually abused them. The Hearing Committee unanimously concluded that Respondent's conduct was both willful and abusive, as defined in Black's Law Dictionary. Therefore, the Committee sustained the Third and Fourth Specifications.

### **Gross Negligence**

The record clearly established that Respondent deviated from acceptable standards of medical practice with respect to the care rendered to Patient A and Patient B. Respondent intravenously injected these patients with Versed, in the form of a single bolus injection.

Versed, a short-acting benzodiazepine central nervous system depressant, is known to cause respiratory depression, hypoxia, respiratory arrest and cardiac output depression. It is essential that an appropriate history and physical examination of the patient be conducted prior to its administration. Such a history and physical examination should include, at a minimum, some evaluation of the patient's food intake and vital signs. Further, intravenous Versed should only be administered in settings that provide for continuous monitoring of cardiac and respiratory function, and where resuscitative drugs and equipment and personnel trained in their use are available. Versed should not be administered in a single bolus injection.

The record demonstrates that Respondent failed to conduct the minimally required history and physical examination prior to

his administration of Versed to the patients. In addition, Respondent failed to provide for the necessary monitoring of the patients' cardiac and respiratory functioning, while under the influence of the drug.

Respondent failed to exercise the care that would be exercised by a reasonably prudent physician under the circumstances. He disregarded known and obvious risks in the manner of administration of Versed to the patients, and by failing to monitor the patients' condition after administration. Respondent ignored the potentially life-threatening consequences of the administration of Versed to his patients. His actions evidenced a complete disregard for the consequences which may have ensued and indifference to the welfare of his patients. As a result, the Hearing Committee concluded, by a preponderance of the evidence, that Respondent's conduct with regard to Patient A and Patient B constituted gross negligence. Therefore, the Committee sustained the Fifth and Sixth Specifications.

**Negligence On More Than One Occasion**

As set forth more particularly above, Respondent administered Versed to Patient B on at least four occasions, followed by his sexual abuse of the patient. On each and every one of these occasions, Respondent deviated from accepted standards of medical practice. He repeatedly failed to exercise the care that would be exercised by a reasonably prudent physician under the circumstances. Therefore, the Hearing Committee unanimously

concluded that Respondent's conduct constituted negligence on more than one occasion, and sustained the Seventh Specification.

**Failure To Maintain Accurate Records**

Respondent failed to document significant medical information in his office medical records for Patient A and Patient B. He failed to record the patients' vital signs prior to the administration of intravenous sedatives and failed to note the dose and route of administration. He further failed to record whether any monitoring was done while the patients were under the influence of the drug, the findings of any such monitoring, and failed to note the patients' condition after recovery.

Based upon Respondent's failure to record this essential information, the Hearing Committee concluded that Respondent failed to maintain a medical record for Patient A and Patient B which accurately reflects the condition and treatment of these patients. Therefore, the Hearing Committee sustained the Eighth and Ninth Specifications.

**DETERMINATION AS TO PENALTY**

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be revoked. In addition, the Committee further determined that Respondent should be fined \$10,000.00 for each specification of misconduct, for a total fine of \$90,000.00. 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 clearly established that Respondent repeatedly placed his patients at risk of grave harm by his inappropriate use of intravenous injections of Versed. Respondent then sexually abused Patients A and B. He abused Patient B on four occasions. Such conduct demonstrates a severe moral defect on the part of Respondent.

A license to practice medicine is a privilege bestowed upon the licensee. By accepting the license, a licensee places himself or herself in a position of public trust. Respondent's conduct constituted an egregious breach of that trust. The sexual abuse of a patient is an extremely serious offense. However, Respondent's misconduct was compounded by his administration of dangerous drugs to his patients. By administering Versed without an appropriate history and physical, and without appropriate monitoring of vital functions, Respondent placed his patients at risk of death due to cardiac or respiratory failure.

Respondent failed to testify or present any evidence on his own behalf. In the absence of any evidence to the contrary, the Hearing Committee concluded that there is no reasonable chance that Respondent is capable of being rehabilitated. Therefore, the Committee further concluded that a lesser sanction, such as

suspension, combined with a term of probation, would not be appropriate. Respondent's license must be revoked.

The Hearing Committee further concluded that Respondent should be fined \$90,000.00 for his misconduct. Given the willful and egregious nature of Respondent's actions, the Committee that a fine should be imposed, as a partial recoupment of the cost of bringing this disciplinary proceeding. Public Health Law Section 230-A provides for the imposition of fines not to exceed \$10,000.00 for each specification of misconduct sustained. Given the fact that nine specifications of misconduct were sustained against Respondent, the Committee determined that a fine in the amount of \$90,000.00 should be imposed upon Respondent.

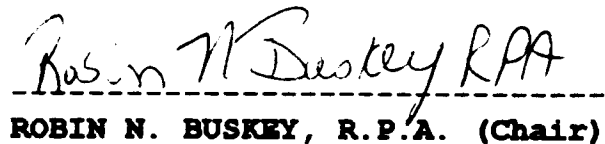
#### **ORDER**

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

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

3. A fine in the amount of **NINETY THOUSAND DOLLARS**  
**(\$90,000.00)** is imposed upon Respondent. Payment shall be made  
within thirty (30) days of the effective date of this Order to the  
New York State Department of Health, Bureau of Accounts Management,  
Corning Tower Building, Empire State Plaza, Albany, New York 12237.

DATED: Albany, New York  
OCTOBER 21, 1992

  
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**ROBIN N. BUSKEY, R.P.A. (Chair)**

Noel L. Cohen, M.D.  
Hong Chul Yoon, M.D.

TO: Silvia P. Finkelstein, Esq.  
Associate Counsel  
New York State Department of Health  
5 Penn Plaza - 6th Floor  
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Joseph R. Benfante, Esq.  
225 Broadway  
New York, New York 10007

Angelito L. Sebollena, M.D.  
8502 Seventh Avenue  
Brooklyn, New York 11228



APPENDIX I

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

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IN THE MATTER : COMMISSIONER'S  
OF : ORDER AND  
ANGELITO L. SEBOLLENA, M.D. : NOTICE OF HEARING

-----:

TO: ANGELITO L. SEBOLLENA, M.D.  
8502 Seventh Avenue  
Brooklyn, New York 11228

The undersigned, LLOYD F. NOVICK, M.D., acting for the Commissioner of Health upon the delegation of the Executive Deputy Commissioner of Health of the State of New York, after an investigation and upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, has determined that the continued practice of medicine in the State of New York by ANGELITO L. SEBOLLENA, 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) (McKinney Supp. 1992), that effective immediately ANGELITO L. SEBOLLENA, M.D., 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) (McKinney Supp. 1992).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1992), and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 1st day of July, 1992 at 10:00 A.M. at 5 Penn Plaza, 6th Floor, New York, New York 10001 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)

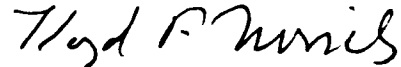
of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

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, Empire State Plaza, Corning Tower Building, 25th Floor, Albany, New York 12237-0026 and by telephone (518-473-1385), 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  
(McKinney Supp. 1992). YOU ARE URGED TO  
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS  
MATTER.

DATED: Albany, New York  
June 16 , 1992



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LLOYD F. NOVICK, M.D.  
as Designee of:  
LORNA MC BARNETTE,  
Executive Deputy Commissioner  
of Health

Inquiries should be directed to:

Silvia P. Finkelstein  
Associate Counsel  
N.Y.S. Department of Health  
Bureau of Professional Medical Conduct  
New York State Department of Health  
5 Penn Plaza, 6th Floor  
New York, New York 10001

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

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IN THE MATTER	:	STATEMENT
OF	:	OF
ANGELITO L. SEBOLLENA, M.D.	:	CHARGES

-----X

ANGELITO L. SEBOLLENA, M.D., the Respondent, was authorized to practice medicine in New York State on January 22, 1973 by the issuance of license number 115411 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 through December 31, 1992, from 8502 Seventh Avenue, Brooklyn, New York 11228.

**FACTUAL ALLEGATIONS**

A. Respondent, a surgeon, maintains a private practice at 8502 Seventh Avenue, Brooklyn, New York. Patient A (the identities of the patients referred to herein are disclosed in the attached Appendix), a 24 year old male, had been under the care of Respondent since on or about July 17, 1987. Respondent performed an exploratory laparotomy on Patient A on or about November 4, 1991. Respondent engaged in conduct as follows:

1. On or about November 24, 1991, following the surgery, Patient A went to Respondent's office complaining of lateral chest pain. Respondent injected Patient A intravenously with Versed, a central nervous system depressant benzodiazepine. This injection was not medically indicated and was not part of a legitimate treatment plan. Respondent failed to monitor Patient A's respiratory and cardiac function while under sedation.
2. On or about November 24, 1991, after administering Versed intravenously to Patient A, Respondent fondled Patient A's penis; then Respondent kissed Patient A on the mouth while masturbating with one hand; Respondent took Patient A's hand and pressed it against his (Respondent's) penis; thereafter Respondent performed oral sodomy on Patient A; Respondent then masturbated again.
3. The medical records maintained by Respondent for Patient A do not accurately reflect the medical

condition of Patient A nor the treatment rendered to Patient A.

B. Patient B, a 23 year old male, had been under the care of Respondent since in or about 1986. Respondent was aware that Patient B had undergone in-patient treatment for cocaine dependency from on or about October 30, 1991 to November 27, 1991, at Conifer Park, Glenridge Road, Scotia, New York. Respondent engaged in conduct as follows:

1. From on or about October 27, 1991 to on or about February 12, 1992, on four occasions, Respondent physically and sexually abused Patient B at his office, and on one occasion at the Respondent's apartment, located at 73 Shore Road, Brooklyn, New York. On each of these occasions Patient B called Respondent complaining of anxiety.
  - (a) On one occasion, at Respondent's office, Respondent injected Patient B intravenously. Soon after, Patient B felt groggy and unable to move. Then Respondent kissed Patient B on the mouth and fondled Patient B's genitals;
  - (b) On another occasion, at Respondent's office, Respondent injected Patient B with Versed intravenously. Soon after, Patient B felt groggy and unable to move. Then Respondent performed oral sodomy on Patient B;



(c) On another occasion, in or about January, 1992, at Respondent's office, Respondent injected Patient B intravenously. Soon after Patient B felt groggy and unable to move. Respondent lay on top of Patient B and pressed back and forth against him;

(d) On another occasion, in or about February, 1992, Respondent took Patient B to Respondent's apartment. Respondent injected Patient B intravenously. Soon after, Patient B felt groggy and unable to move. Respondent laid on top of Patient B and pressed back and forth against him.

2. On or about February 23, 1992, Patient B called Respondent and falsely told him that he had "gotten high" and wanted an injection. Patient B asked Respondent to come to his home because he was feeling so bad he could not leave the house. When he arrived at Patient B's home, Respondent asked the Patient to lie down on the bed and injected him intravenously. Soon after Patient B felt groggy and unable to move; Respondent kissed him on the cheek, pulled Patient B's shorts and underwear down and performed oral sodomy on Patient B.
3. On each of these occasions, when Respondent injected Patient B intravenously with Versed, said injection was

not medically indicated and was not part of a legitimate treatment plan. Respondent failed to monitor Patient B's respiratory and cardiac function while under sedation.

4. The records maintained by Respondent for Patient B do not accurately reflect the medical condition of Patient B nor the treatment rendered to Patient B.

#### **SPECIFICATION OF CHARGES**

##### **FIRST THROUGH SECOND SPECIFICATIONS**

**ENGAGING IN CONDUCT IN THE PRACTICE OF MEDICINE WHICH EVIDENCES MORAL UNFITNESS TO PRACTICE THE PROFESSION**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law section 6530(20), (McKinney's, Supp. 1992), by engaging in conduct in the practice of medicine which evidences moral unfitness to practice the profession, in that Petitioner charges:

1. The facts in paragraph A, A1 and A2.
2. The facts in paragraph B, B1, B1(a), B1(b), B1(c), B1(d), B2 and B3.

SEVENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law section 6530(3), (McKinney's, Supp. 1992), in that he practiced the profession with negligence on more than one occasion, specifically, Petitioner charges two or more of the following:

7. The facts in Paragraphs B , B1, B1(a), B1(b), B1(c), B1(d), B2, and/or B3.

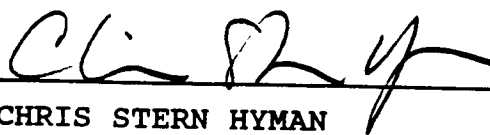
EIGHTH THROUGH NINTH SPECIFICATIONS

FAILURE TO MAINTAIN ACCURATE RECORDS

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law section 6530(32), (McKinney's, Supp. 1992), by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges:

8. The facts in Paragraphs A and A3.
9. The facts in Paragraphs B and B4.

DATED: New York, New York  
June 17, 1992



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CHRIS STERN HYMAN  
Counsel  
Bureau of Professional Medical  
Conduct

THIRD THROUGH FOURTH SPECIFICATIONS

WILLFULLY HARASSING, ABUSING OR INTIMIDATING A  
PATIENT EITHER PHYSICALLY OR VERBALLY

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(31), (McKinney's, Supp. 1992), by willfully harassing, abusing or intimidating a patient either physically or verbally, in that Petitioner charges:

3. The facts in paragraph A, A1 and A2.
4. The facts in paragraph B, B1, B1(a), B1(b), B1(c), B1(d), B2 and B3.

FIFTH THROUGH SIXTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law section 6530(4), (McKinney, Supp. 1992), by practicing the profession with gross negligence, in that Petitioner charges:

5. The facts in Paragraphs A and A1.
6. The facts in Paragraphs B and B3.