



**New York State Board for Professional Medical Conduct**

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

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

Patrick F. Carone, M.D., M.P.H.  
Chair  
Ansel R. Marks, M.D., J.D.  
Executive Secretary

December 10, 1997

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Neil R. Hirsch, M.D.  
8433 Paseo Vista Drive  
Las Vegas, Nevada 89128

RE: License No. 121240

Dear Dr. Hirsch:

Enclosed please find Order #BPMC 97-296 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  
Hedley Park Place, Suite 303  
433 River Street  
Troy, New York 12180

Sincerely,

Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Timothy J. Mahar, Esq.

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

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IN THE MATTER	:	CONSENT
OF	:	AGREEMENT
NEIL R. HIRSCH, M.D.	:	AND ORDER
	:	BPMC # 97-296

-----X

NEIL R. HIRSCH, M.D., says:

On or about September 11, 1974, I was licensed to practice as a physician in the State of New York, having been issued license number 121240 by the New York State Education Department.

My current address is 8433 Paseo Vista Drive, Las Vegas, Nevada 89128 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with five specification(s) of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.

I admit guilt to the first, second and third specifications in full satisfaction of all of the specifications charged.

I hereby agree to the following penalty:

- 1) A five year suspension of my New York medical license, said suspension to be stayed with five years probation in accordance with the terms set forth in Exhibit B.


I agree that in the event that I am charged with

professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I understand that, in the event that the Board does not grant this application, 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 State Board for Professional Medical Conduct grants my application, an order of the Chairperson of the Board shall be issued in accordance with same.

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

  
NEIL R. HIRSCH, M.D.  
RESPONDENT

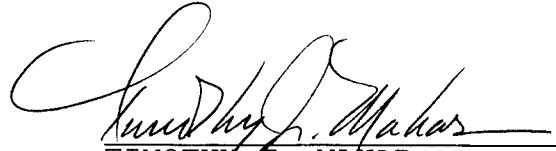
Subscribed before me this  
24<sup>th</sup> day of November, 1997.

  
NOTARY PUBLIC

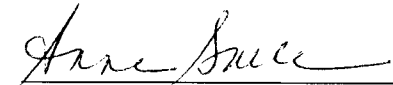
Notary Public State of Nevada  
County of Clark  
DAVID M. JOHNS  
Notary Commission Expires  
June 28, 1999

AGREED TO:

DATE: December 2, 1997

  
TIMOTHY J. MAHAR  
ASSOCIATE COUNSEL  
Bureau of Professional  
Medical Conduct

DATE: December 3, 1997

  
ANNE F. SAILE  
DIRECTOR  
Office of Professional  
Medical Conduct

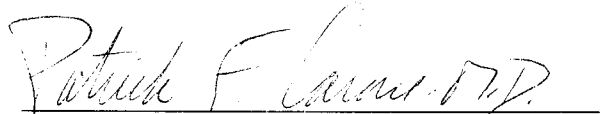
ORDER

Upon the proposed agreement of NEIL R. HIRSCH, M.D. (Respondent) for Consent Order, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; 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.

DATED: 12/8/97



PATRICK F. CARONE, M.D., M.P.H.  
Chair  
State Board for Professional  
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
NEIL R. HIRSCH, M.D. : CHARGES

-----X

NEIL R. HIRSCH, M.D., the Respondent, was authorized to practice medicine in New York State on September 11, 1974 by the issuance of license number 121240 by the New York State Education Department. Respondent is not currently registered in New York.

**FACTUAL ALLEGATIONS**

**Admission of Theft and Concealment**

A. On or about April 6, 1992, Respondent admitted to the following conduct before the Arizona Superior Court, County of Maricopa (State of Arizona v Neil R. Hirsch [CR89-07663]):

1. Respondent concealed from the Arizona Health Care Cost Containment System (AHCCCS), during the period from approximately August 9, 1983 through February 8, 1984, his financial interest in two subcontracts between Health Care Providers of Arizona, Inc. (HCPA), a state contracted provider of health care services to the indigent of which Respondent was a principal, and Eyelites International, Inc., a provider of eyeglasses, among other things, of which Respondent was a joint

owner, when Respondent in fact knew that AHCCCS regulations required the disclosure of his interest in Eyelites as a party to a subcontract with HCPA.

2. Respondent aided in the theft of HCPA monies on or about July 8, 1983 by signing a check in the amount of \$300.00 written on HCPA's checking account and payable to Oximetrix, Inc. for an electric surgical knife when Respondent in fact knew that the electric surgical knife would be used for non-AHCCCS cosmetic surgical patients.
3. Respondent aided in the theft of HCPA monies on or about January 13, 1984 by signing a check in the amount of \$10,000.00 written on HCPA's checking account and payable to Touch Ross Minneapolis as part payment for a non-AHCCCS related actuarial study to assist in the determination of health insurance rates for another health services provider.

#### Arizona Conviction

B. On or about April 6, 1992, Respondent was convicted of the following criminal offenses upon a plea of guilty in the Arizona Superior Court, County of Maricopa (State of Arizona v Neil R. Hirsch [CR89-07663]):

1. fraudulent schemes and practices and willful

concealment in violation of Arizona Revised Statutes § 13-2311, on the basis of the conduct set forth in paragraph A.1, above; and

2. facilitation in violation of Arizona Revised Statutes § 13-1004, on the basis of the conduct set forth in paragraphs A.2 and A.3 above; and

3. theft by conversion of the property of another entrusted to the defendant or placed in his possession in violation of Arizona Revised Statutes §13-1802(A) (2), on the basis of the conduct alleged in paragraphs A.2 and A.3 above.

C. The conduct for which Respondent was convicted in Arizona would, if committed in New York, constitute a crime under Penal Law §190.60 [scheme to defraud in the second degree]; and/or Penal Law §195.20 [defrauding the government]; and/or Penal Law §20 [criminal liability for conduct of another]; Penal Law §§155.05 and 155.30 et seq. [Larceny]; and/or Social Services Law §366-b [penalties for fraudulent practices (Medicaid)].

D. On or about July 31, 1992, Respondent was sentenced in the matter of State of Arizona v Neil R. Hirsch [CR89-07663] to a fine of \$54,000.00 and probation. Respondent completed probation after which he applied to the Arizona Superior Court for the vacatur of the judgment of guilt and a dismissal of criminal charges, which was granted by an order of the



dated May 14, 1996. The vacatur of the judgment of guilt was not on the merits and was granted under Arizona statute requiring Respondent to have completed his probation prior to obtaining the dismissal. The criminal conviction was not expunged from Respondent's record.

#### Illinois Discipline

E. On or about December 7, 1995, Respondent entered into a consent agreement with the Illinois Department of Professional Regulation (Illinois Board) which imposed a penalty on Respondent's Illinois medical license consisting of probation for a period of two years or the completion of the Arizona criminal probation, whichever occurred first.

F. The conduct upon which the Illinois Board imposed discipline upon Respondent's medical license consisted, in part, of Respondent's conviction of the crimes in Arizona as set forth in paragraphs A and B above and Respondent's exclusion from the IHPA Medical Assistant Program following the Arizona conviction. Respondent was charged before the Illinois Board with violation, among other things, paragraph 60/22(A)(5) of Chapter 225 of the Illinois Compiled Statutes which provides that disciplinary action may be taken where the licensee engages in dishonest, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

G. The conduct upon which the Illinois Board disciplined Respondent would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law § 6530(2)

[practicing the profession fraudulently]; and/or N.Y. Educ. Law § 6530(20) [conduct in the practice of medicine which evidences moral unfitness].

#### Violation of Federal Statute

H. On or about October 3, 1994, Respondent was determined to have violated a Federal statute by the United States Department of Health and Human Services. Specifically, Respondent violated 42 USC § 1320a-7(1) which provides for the exclusion of individuals from the Medicare, Medicaid, Maternal and Child Health Services Block Grant and block grants to states for social services programs following a conviction under State or Federal law of a criminal offense related to the delivery of a service under subchapter XVIII or under any State health care program. Respondent's exclusion was based upon his Arizona conviction as set forth in paragraphs A and B above, of criminal offenses related to the delivery of an item under the Arizona "Medicaid" program.

I. The conduct which violated the Federal statute would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law § 6530(2) [practicing the profession fraudulently]; and/or N.Y. Penal Law §§20, 155.05, 155.06, 190.60, 195.20; and/or N.Y. Educ. Law § 6530(20) [moral unfitness]; and/or N.Y. Social Services Law §366-b [penalty for fraudulent practices (Medicaid)].

SPECIFICATIONS

FIRST SPECIFICATION

CONVICTION OF A CRIME IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(iii) by reason of having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law, in that Petitioner charges:

1. The facts in paragraphs A.1, A.2, A.3, B.1, B.2, B.3, C and/or D.

SECOND SPECIFICATION

DISCIPLINE BY OTHER STATE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(d) by reason of having disciplinary action taken against his license to practice medicine by a duly authorized disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the law of New York State, in that Petitioner charges:

2. The facts in Paragraphs E, F and/or G.

THIRD SPECIFICATION  
VIOLATION OF FEDERAL STATUTE

Respondent is charged with having been found guilty in an adjudicatory proceeding of violating a federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after a resolution of the proceeding by stipulation or argument, and where the violation would constitute professional misconduct in New York, in that Petitioner charges:

3. The facts set forth in paragraphs H and/or I.

FOURTH SPECIFICATION  
FRAUDULENT PRACTICE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(2) by reason of having practiced the profession fraudulently, in that Petitioner charges:

4. The facts in paragraphs A.1, A.2, and/or A.3.

FIFTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(20) by having engaged in conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

5. The facts in paragraphs A.1, A.2, and/or A.3.

DATED: *November 7, 1997*  
Albany, New York



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

EXHIBIT "B"

TERMS OF PROBATION

1. Respondent 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 and obligations imposed by law and by his profession;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct (OPMC), New York State Department of Health, Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action;
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. 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].
5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits

with Respondent and his staff at practice locations or OPMC offices.

7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.