



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

Paula Wilson
Executive Deputy Commissioner

August 31, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lewis Wolf, M.D.
6150 150th Avenue North
Clearwater, Florida 34620

Lewis Wolf, M.D.
5222 4th Street North #315
St. Petersburg, Florida 33703

Karen E. Carlson, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Empire State Plaza
Corning Tower - Room 2438
Albany, New York 12237

Effective Date: 9/7/94

RE: In the Matter of Lewis Wolf, M.D.

Dear Dr. Wolf and Ms. Carlson :

Enclosed please find the Determination and Order (No. 94-170) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(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.

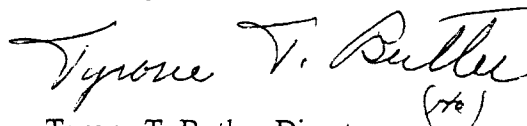
The notice of review served on the Administrative Review Board should be forwarded to:

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

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler". To the right of the signature, there is a small handwritten mark that appears to be "(rte)".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mmn

Enclosure

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

**IN THE MATTER
OF
LEWIS WOLF, M.D.**

**DETERMINATION
AND
ORDER**

NO. BPMC-94-170

ARSENIO G. AGOPOVICH, M.D., (Chair), **ARTHUR J. SEGAL, M.D.** and **MICHAEL J. BROWN, R.P.A.** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10)(e) of the Public Health Law.

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

The Department of Health appeared by **KAREN E. CARLSON, ESQ.**, Assistant Counsel.

LEWIS WOLF, M.D., (hereinafter "Respondent") failed to appear personally at the hearing, was not represented by counsel and failed to submit any answer or response to said Statement of Charges.

A hearing was held on August 10, 1994. Evidence was received and a transcript of the proceedings was made. After consideration of the entire record, the Hearing Committee issues this Determination and Order, pursuant to the Public Health Law and the Education Law of the State of New York.

STATEMENT OF CASE

This case was brought pursuant to §230(10)(p) of the Public Health Law of the State of New York (hereinafter P.H.L. §230[10][p], also known as an "expedited hearing").

The scope of an expedited hearing is strictly limited to evidence or sworn testimony relating to the nature and severity of the penalty to be imposed on the licensee¹ (Respondent).

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

Respondent is also charged with professional misconduct within the meaning of §6530(9)(d) of the Education Law of the State of New York (hereinafter Education Law), to wit: "professional misconduct ... by reason of having disciplinary action taken by a duly authorized professional disciplinary agency of another state, for conduct, which conduct, would, if committed in New York State constitute professional misconduct under the Laws of New York State. (Petitioner's Exhibit # 1 and §6530[9][d] of the Education Law).

¹ P.H.L. §230(10)(p), fifth sentence.

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

In order to find that Respondent committed professional misconduct, the Hearing Committee, pursuant to §6530(9)(d) of the Education Law, must determine: (1) whether Respondent had some disciplinary action taken or instituted against him by a duly authorized professional disciplinary agency of another state and (2) whether Respondent's conduct on which the action was taken would, if committed in New York State, constitute professional misconduct under the laws of New York State.

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

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. These facts represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Unless otherwise noted, all Findings and Conclusions herein were unanimous.

1. Respondent was authorized to practice medicine in New York State on September 16, 1977 by the issuance of license number 132530 by the New York State Education Department. (Petitioner's Exhibit # 1 & Petitioner's Exhibit # 3)²

2. The Respondent is not currently registered with the New York State Education Department. (Petitioner's Exhibit # 1)

3. Paul D. Crowley attempted to personally serve the Notice of Referral Proceeding and the Statement of Charges on Respondent on June 21, 1994 and June 29, 1994. On July 6, 1994, Sheila A. Barna mailed, by certified mail, the Notice of Referral Proceeding and the Statement of Charges to Respondent, at three separate addresses. (Petitioner's Exhibit # 2)

4. The Department of Professional Regulation of the State of Florida, (hereinafter "Florida Department") and the Florida Board of Medicine, (hereinafter "Florida Board") are part of a state agency charged with regulating the practice of medicine pursuant to the Laws of the State of Florida. (Petitioner's Exhibit # 4 and Petitioner's Exhibit # 5)

5. On July 31, 1991, the Florida Department charged, by Administrative Complaint³, the Respondent with the commission of prohibited acts, under the Laws of Florida, in that he was unable to practice medicine with reasonable skill and safety to patients due to Respondent's chemical dependence on opiates and sedatives, including hydrocodone and benzodiazepines. (Petitioner's Exhibit # 5)

² refers to exhibits in evidence submitted by the New York State Department of Health.

³ Case No. 9103682 - State of Florida, Department of Professional Regulation, Board of Medicine: Department of Professional Regulation, as petitioner vs. Lewis Wolf, M.D., as respondent. Administrative Complaint signed, July 31, 1991 and filed August 8, 1991.

6. As a result of the July 31, 1991 charges, the Florida Board of Medicine, on December 19, 1991 adopted the administrative complaint of the Florida Department in toto. (Petitioner's Exhibit # 5)

7. The Florida Board's Conclusions of Law indicate that Respondent had committed prohibited acts under Florida Law and was guilty of violating the following Florida Statute: (Petitioner's Exhibit # 4)

§458.331(1)(s) of Title 32 (Professions and Occupations).

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(s) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition. ... (Petitioner's Exhibit # 6)

8. The Florida Board's Conclusions of Fact indicate that:

Respondent is unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals or any other type of material, in that Respondent is chemically dependent on opiates and sedatives, including hydrocodone and benzodiazepines, and that Respondent has failed to progress therapeutically despite multiple attempts to treat his impairment.

9. Some of the Findings in the Final Order of December 19, 1991, which incorporated the Administrative Complaint include: (Petitioner's Exhibit # 5)

- (a) treatment for opiod dependency in September 1990;
- (b) a positive urine drug screen for benzodiazepines on December 14, 1990;
- (c) treatment for Vicadin dependency on March 7, 1991;

(d) treatment for drug dependency on March 18, 1991;

(e) treatment and detoxification of chemical dependence to hydrocodone and Valium on May 2, 1991;

(f) a positive urine drug screen for benzodiazepines on May 2, 1991;

10. The Florida Board, in its Final Order of December 19, 1991, took the following actions in response to Respondent's chemical dependency and violations of Florida Law:

A. Respondent's license to practice medicine was REPRIMANDED;

B. Respondent's license to practice medicine was restricted such that he was required to enroll in and comply with the requirements of the Physician's Recovery Network;

C. Respondent's license to practice medicine in the State of Florida was SUSPENDED for a minimum of one (1) year from July 1, 1991, and until such time as he appeared before the Florida Board and established his ability to practice medicine with skill and safety;

D. On reinstatement, Respondent's license to practice medicine in the State of Florida would be placed on PROBATION for a period of 5 years;

E. various terms and conditions of probation were imposed.

(Petitioner's Exhibit # 5)

11. On April 8, 1993, the Florida Department charged, by Administrative Complaint⁴, Respondent with violating the Board's suspension by writing numerous prescriptions for legend drugs, including controlled substances, to fictitious patients, in violation of Florida Statutes⁵. (Petitioner's Exhibit # 4) Respondent was also charged with the commission of prohibited acts, under the Laws of Florida, in that he prescribed a medicinal drug to himself and prescribed a legend drug, including a controlled substance, other than in the course of the physician's professional practice⁶. Finally, Respondent was charged with violating the Florida Board's prior Order of December 19, 1991⁷ (Petitioner's Exhibit # 4)

12. On October 15, 1993, Respondent stipulated and agreed to the entry of a Final Order incorporating stipulated facts and a stipulated disposition and did in fact sign said Consent Agreement, with the Florida Department, who countersigned said Consent Agreement on October 21, 1993. Said Consent Agreement was approved and adopted in toto by the Florida Board on December 20, 1993. (Petitioner's Exhibit # 4)

13. In said Consent Agreement, the Respondent, inter alia: was fined \$3,000.00; received a reprimand; had his license to practice medicine in the State of Florida suspended for at least three (3) years and indefinitely thereafter, until such time as he appeared before the Florida Board and established his ability to practice medicine with

⁴ Case No. 92-04068 - State of Florida, Department of Professional Regulation, Board of Medicine: Department of Professional Regulation, as petitioner vs. Lewis S. Wolf, M.D., as respondent. Administrative Complaint signed, April 8, 1993 and filed April 12, 1993.

⁵ §458.331(1)(q) of Title 32 (Professions and Occupations) (Petitioner's Exhibit # 6).

⁶ §458.331(1)(r) of Title 32 (Professions and Occupations) (Petitioner's Exhibit # 6).

⁷ §458.331(1)(x) of Title 32 (Professions and Occupations) (Petitioner's Exhibit # 6).

skill and safety to patients; was given 5 years of probation if his license is reinstated; was prevented from holding a DEA license until successful completion of at least 2 years of probation. (Petitioner's Exhibit # 4)

CONCLUSIONS OF LAW

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

The Hearing Committee concludes that the following Factual Allegations, from the June 14, 1994 Statement of Charges, are SUSTAINED ⁸:

Paragraph 1.	:	(4 - 10)
Paragraph 2.	:	(4 - 9)
Paragraph 3.	:	(4 - 10)
Paragraph 5.	:	(4; 11 - 13)
Paragraph 6.	:	(4; 11 - 13)

Paragraphs 4 and 7 are not factual allegations, but require a conclusion for this Hearing Committee to make, as discussed infra.

The Hearing Committee further concludes that the following Specifications of Charges are SUSTAINED ⁹:

FIRST SPECIFICATION: (Paragraph: 1 -3)

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

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

SECOND SPECIFICATION: (Paragraph: 5 - 6)

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

Service of Charges and of Notice of Hearing.

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

From the affidavit submitted, by Paul D. Crowley, 2 attempts at personal service were made: one on a Tuesday at 2:00 P.M. and one on a Wednesday at 3:00 P.M. In addition, the affidavit indicates that the address is a drug/alcohol rehabilitation center where, appropriately and correctly, no information is being given as to residents. In determining whether due diligence has been exercised, no rigid rule can properly be prescribed. Each case must be viewed on its own separate facts¹⁰. Barnes v. City of New York, 51 N.Y.2d 906 (1980).

¹⁰ 4 attempts on 4 different occasions, during normal working hours, on people who were employed was not sufficient to meet due diligence requirements of the New York Civil Practice Law and Rules §308(4). Barnes v. City of New York, 51 N.Y.2d 906 (1980).

It is noted that pursuant to §6502(5) of the Education Law, a licensee, such as Respondent, is under a duty to notify the Department of Education of any change of mailing address within thirty (30) days of such change.

It is determined that Petitioner has shown due diligence in this case. Two (2) attempts were made with an indication that additional attempts would be as fruitless as the previous attempts since the process server would be unable to verify Respondent's presence at that address. In addition, Respondent's was under a duty to provide an up to date address. Matter of Tarter v. Sobol, 189 A.D.2d 916 (Third Dep't. 1993).

Three (3) affidavits of service, of certified mailings, to three (3) separate last known addresses, were presented to show compliance with the remainder of the requirements of P.H.S. §230(10)(d).

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

The Florida Board of Medicine is a duly authorized professional disciplinary agency. In 1991, Said Florida Board found that Respondent was guilty of violating Florida Statutes and said violations warranted disciplinary action by the Florida Board. The record establishes that Respondent was dependent on or a habitual user of opioids, Valium, Vicodin and other narcotics. The record also establishes that said dependence impaired Respondent's ability to practice medicine. The Hearing Committee finds that Respondent's conduct, if committed in New York State, would constitute professional misconduct under §6530(8) of the Education Law of the laws of New York State. Therefore, Respondent has committed professional misconduct pursuant to §6530(9)(b) of the Education Law.

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

In 1993, the Florida Department, a duly authorized professional disciplinary agency, instituted disciplinary action against Respondent. Although there were no specific findings, admissions or denials, the hearing Committee determines that Respondent's conduct on which the Administrative Complaint was based would, if committed in New York State, constitute professional misconduct under the laws of New York State. It is clear that, under the 1991 Final Order, Respondent's license to practice medicine was suspended for a minimum of one (1) year from July 1, 1991. Any and all of the conduct of Respondent, subsequent to his suspension, set forth in the Administrative Complaint was a violation of the Final Order of the Florida Board. Said violation would, if committed in New York State, constitute professional misconduct under §6530(29) of the Education Law of the laws of New York State. Therefore, Respondent has committed professional misconduct pursuant to §6530(9)(d) of the Education Law.

DETERMINATION

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

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

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

Since Respondent did not appear at this proceeding, he was not subject to direct or cross-examination nor to questions from the Hearing Committee in this proceeding. Therefore the Committee is bound by the documentary evidence presented.

The record establishes that Respondent committed significant violations of Florida Laws, located within Title 32 of the Professions and Occupations Code.

The Hearing Committee concludes that if this case had been held in New York, on the facts presented, the pattern of drug dependence, lack of compliance with a prior order and failure to establish the reasonable ability to practice medicine with skill and safety to patients would have resulted in a unanimous vote for revocation of Respondent's license.

The Hearing Committee considers Respondent's misconduct to be very serious. Given Respondent's unwillingness to accept treatment for his drug dependency and with a concern for the health and welfare of patients in New York State, the Hearing Committee determines that revocation of Respondent's license is the appropriate sanction to impose under the circumstances.

ORDER

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

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

DATED: Albany, New York
August, 24, 1994



ARSENIO G. AGOPOVICH, M.D., Chair

ARTHUR J. SEGAL, M.D.
MICHAEL J. BROWN, R.P.A.

To: Lewis Wolf, M.D.
6150 150th Avenue North
Clearwater, Florida, 34620

Lewis Wolf, M.D.
5222 4th Street North, #315,
St. Petersburg, Florida 33703

Karen E. Carlson, Esq., Associate Counsel,
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2429
Empire State Plaza
Albany, New York 12237

A P P E N D I X I

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



-----X

IN THE MATTER : NOTICE OF
OF : REFERRAL
LEWIS WOLF, M.D. : PROCEEDING

-----X

TO: LEWIS WOLF, M.D.
6150 150th Avenue North
Clearwater, Florida 34620

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 10th day of August, 1994 at 1:15 in the afternoon of that day at the Court of Claims, Justice Building, Courtroom #1, Empire State Plaza, Albany, New York 12237.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the

nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before August 1, 1994.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before August 1, 1994 and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. 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 proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in

writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
June 14, 1994

Peter D. Van Buren

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

Inquiries should be addressed to:

Karen E. Carlson
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2429
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
LEWIS WOLF, M.D. : CHARGES

-----X

LEWIS WOLF, M.D., the Respondent, was authorized to practice medicine on September 16, 1977 by the issuance of license number 132530 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine in New York State.

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FACTUAL ALLEGATIONS

1. The State of Florida, Department of Professional Regulation, Board of Medicine [hereinafter "the Florida Board"], by Final Order dated December 19, 1991, found Respondent guilty of being unable to practice medicine with reasonable skill and safety to patients by reason of being chemically dependent on opiates and sedatives, in violation of Florida Statutes §458.331(1)(s).
2. Specifically, the Florida Board's finding was based upon the following:
 - Respondent was treated for opioid dependency in September of 1990 in Miami, Florida.
 - Respondent had a positive drug urine screen in

December of 1990 for benzodiazepines.

- Respondent entered another treatment program in March of 1991 for dependency on Vicodin and for use of Valium.
 - Respondent signed himself out of treatment against hospital advice, four days after admission.
 - Respondent was readmitted with more positive drug screens in late March 1991 and was discharged on March 27, 1991 with a final diagnosis including opioid dependency, sedative dependency, and somatoform pain disorder.
 - Respondent again was admitted in May of 1991 for detoxification and treatment and did not respond to treatment for chemical dependency.
3. The Florida Board suspended Respondent's license for one year and placed him on probation for a period of five years to include monitoring by an approved physician and successful enrollment in the Physician's Recovery Network.
4. The conduct underlying the Florida Board's finding of unprofessional conduct would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(8) (McKinney Supp. 1994) [being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects].
5. The Florida Board, by Consent Order dated December 20, 1993, entered into between the Board and Respondent, took disciplinary action against Respondent. More

specifically the Florida Board took the following disciplinary action:

- suspended Respondent's license for a minimum of three years
- imposed a five year period of probation when Respondent's license is reinstated
- imposed a three thousand dollar fine
- reprimanded Respondent
- suspended Respondent's DEA license
- required Respondent to continue satisfactory involvement with the Physician Recovery Network

6. The conduct underlying the disciplinary action included the writing of six prescriptions for controlled substances to fictitious patients while Respondent's license to practice was suspended in violation of Florida Statute §458.331(1)(q) [prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug including any controlled substance, other than in the course of the physician's professional practice] and Florida Statute §458.331(1)(x) [violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing].

7. The conduct underlying the Florida Board's imposition

committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(2) [practicing fraudulently] and/or N.Y. Educ. Law §6530(29) [violating any term of probation or condition or limitation imposed on the licensee].

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(b) (McKinney Supp. 1994) by reason of his having 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 in that Petitioner charges:

1. The facts in Paragraphs 1 through 4.

SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994) by reason of his having disciplinary action taken by a duly authorized professional 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 laws of New York State in that Petitioner charges:

2. The facts in Paragraphs 5 through 7.

DATED: Albany, New York

June 14, 1994

Peter D. Van Buren

PETER D. VAN BUREN
Deputy Counsel