



New York State Board for Professional Medical Conduct

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

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
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NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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Chair

Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

October 23, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lewis A. Rogatnick, M.D.
5 East Center Street
Oneonta, New York 13820

RE: License No. 183426
Revised Order No 01-224

Dear Dr. Rogatnick:

Enclosed please find **REVISED** Order #BPMC 01-224 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect October 23, 2001.

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

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "Ansel R. Marks". The signature is fluid and cursive, with a large initial "A" and "M".

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

Enclosure

cc: Robert S. Asher Esq.
295 Madison Avenue
Suite 700
New York, NY 10017

Valeria B. Donovan, Esq.

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

IN THE MATTER
OF
LEWIS A. ROGATNICK, M.D.

CONSENT
ORDER
BPMC No. 01-224


Upon the proposed agreement of Lewis A. Rogatnick, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 9/27/01


WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

IN THE MATTER
OF
LEWIS A. ROGATNICK, M.D.

CONSENT
AGREEMENT
AND
ORDER

Lewis A. Rogatnick, M.D., (Respondent) says:

That on or about August 6, 1990, I was licensed to practice as a physician in the State of New York, having been issued License No. 183426 by the New York State Education Department.

My current address is 126 Collins Drive, Oneonta, New York 13820, and I will advise the Director of the Office of Professional Medical Conduct (OPMC) of any change of my address.

I understand that the New York State Board for Professional Medical Conduct (the Board) has charged me with forty-two specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit guilt to the First Specification and the Sixteenth through Twenty-eighth Specifications, in full satisfaction of the charges against me. I hereby agree to the following penalty:

- 1) A two-year suspension of my license to practice medicine in the State of New York, the entirety of which shall be stayed conditioned on my full compliance with the terms of this Consent Agreement and with the Terms of Probation attached hereto as Exhibit "B".
- 2) A period of probation of five years, during which I must fully comply with the Terms of Probation attached hereto as Exhibit "B".
- 3) A permanent restriction on my license that my surgical practice be restricted to a New York Public Health Law Article 28 facility.

- 4) One hundred hours of community service to be completed within 180 days of the effective date of this Order, unless the Director of OPMC approves an extension in writing. The service will be medical in nature, and delivered in a facility or with an organization equipped to provide medical services and serving a needy or medically under served population. A written proposal for community service will be submitted to, and is subject to the written approval of the Director of OPMC. Community service performed prior to written approval shall not be credited toward compliance with this Order.
- 5) A fine of five thousand dollars (\$5,000.00), payable in full within sixty (60) days of the effective date of this Order. Payment will be submitted to: Bureau of Accounts Management, New York State Department of Health, Empire State Plaza, Corning Tower, Room 1245, Albany, New York 12237.
- 6) A 16-hour course in ethics, or equivalent program subject to the prior written approval of the Director, to be completed within 180 days of the effective date of this Order, unless the Director of OPMC approves an extension in writing.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses

his license; and

That Respondent shall fully cooperate in every respect with (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby make this Application to the Board and request that it be granted.

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

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

shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED


9/6/01



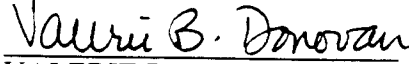
LEWIS A. ROGATNICK, M.D.
Respondent

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

DATE: 8/27/2001


ROBERT S. ASHER, ESQ.
Attorney for Respondent

DATE: 9/13/01


VALERIE B. DONOVAN
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: 9/25/01

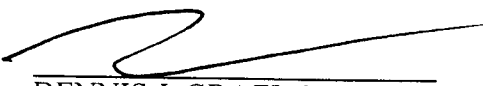

DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

Exhibit "A"

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

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

-----X

LEWIS A. ROGATNICK, M.D., the Respondent, was authorized to practice medicine in New York State on August 6, 1990 by the issuance of license number 183426 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. In or about April, 1994, the Navapache Regional Medical Center, Show Low, Arizona (Navapache Hospital), summarily suspended Respondent's privileges based on his surgical management of patients. On or about February 22, 1995, Navapache Hospital removed the suspension and restricted Respondent's privileges.

B. On or about May 12, 1994, Respondent signed an application for appointment to the medical staff at Winslow Memorial Hospital, Winslow, Arizona (Winslow Hospital). Respondent fraudulently responded "No" to the following questions, "Have any of the following ever been or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed on probation, not renewed, or

voluntarily relinquished? [1] Membership on any hospital medical staff. [2] Clinical privileges.", when in fact Respondent knew that in or about April, 1994, he had been summarily suspended by Navapache Hospital. On or about June 30, 1994, Winslow Hospital denied his application for appointment.

C. On or about December 6, 1994, Respondent signed an application for appointment to the medical staff at Jennings American Legion Hospital, Jennings, Louisiana (Jennings Hospital). Respondent fraudulently responded "No" to the following question, "Have you ever been refused membership on a hospital medical staff?", when in fact Respondent knew that on or about June 30, 1994, his application for appointment had been denied by Winslow Hospital.

D. On or about April 8, 1995, Respondent signed a Registration Application with the New York State Education Department and fraudulently responded "No" to question 1(c) which asked, "Since you last registered, has any hospital . . . restricted or terminated your professional training, employment or privileges...", when he knew that in or about April, 1994 he was summarily suspended by Navapache Hospital, and/or on or about February 25, 1995, Navapache Hospital, restricted his privileges.

E. On or about November 12, 1996, the Executive Committee of the Medical Staff at Jennings summarily suspended

all of Respondent's privileges for, among other things, his "disruptive and abusive behavior toward nurses, staff and other employees of the hospital that is detrimental to patient care and functioning of the hospital . . . [and] inflammatory outburst in surgery during which time your ability to provide safe and proper care for your patients is believed to be impaired." On or about November 21, 1996, Respondent tendered his resignation at Jennings Hospital.

F. On or about November 20, 1997, the Board of Governors of the Opelousas General Hospital, Opelousas, Louisiana (Opelousas Hospital) chose not to grant Respondent Associate Active Staff privileges.

G. On or about February 17, 1998, Respondent signed a Registration Remittance Document with the New York State Education Department and fraudulently responded "No" to question 2(c) which asked, "Since you last filed a registration application, has any hospital . . . restricted or terminated your professional training, employment or privileges, or have you voluntarily or involuntarily resigned or withdrawn from such association to avoid the imposition of such action due to professional misconduct, unprofessional conduct, incompetency, or negligence?", when he knew that he had tendered his resignation from Jennings Hospital on November 21, 1996, following being summarily suspended on or about November 12, 1996, by Jennings Hospital, due to Hospital concerns that his ability to provide safe and proper care for his patients was

impaired.

H. On or about October 19, 1998, Respondent signed an Application for a License to Practice Medicine with the Commonwealth of Virginia, Board of Medicine, and fraudulently responded "No" to the following question, "9. Have you ever voluntarily surrendered your clinical privileges while under investigation, being censured or warned, or requested to withdraw from the staff of any . . . hospital . . .?", when in fact Respondent knew that he had tendered his resignation from Jennings Hospital on November 21, 1996, following being summarily suspended on or about November 12, 1996, by Jennings Hospital, due to Hospital concerns that his ability to provide safe and proper care for his patients was impaired.

I. On or about November 6, 1998, Respondent signed an application for an appointment to the medical staff at Lincoln Hospital and Mental Health Center, Bronx, New York (Lincoln Hospital). Respondent responded fraudulently to the following questions on the application:

1. Respondent answered "No" to the question, "Have you ever been . . . subject to denial, revocation, suspension, reduction, limitation, probation, non-renewal or voluntary relinquishment of: 4. Membership on any hospital medical staff?", when in fact he knew that he had been denied privileges at Winslow Hospital on or about June 30, 1994; that he

had resigned from Jennings Hospital on or about November 21, 1996; and/or that Opelousas Hospital, chose not to grant him associate staff privileges on or about November 20, 1997.

2. Respondent answered "No" to the question, "Have you ever been . . . subject to denial, revocation, suspension, reduction, limitation, probation, non-renewal or voluntary relinquishment of: 5. Clinical privileges at any medical facility?", when he knew in fact that on or about February 22, 1995, upon removal of his summary suspension at Navapache Hospital, his surgical privileges were restricted; and/or that on or about November 21, 1996, he had resigned from Jennings Hospital following being summarily suspended on or about November 12, 1996 by Jennings Hospital.

3. Respondent answered "No" to the application question, "Have you ever voluntarily or involuntarily resigned from any health care facility in order to avoid the imposition of disciplinary measures or curtailment of clinical privileges in any way?", when in fact Respondent knew that he had tendered his resignation from Jennings Hospital on or about November 21, 1996, following being summarily suspended on or about November 12, 1996, by Jennings Hospital, due to Hospital concerns that

his ability to provide safe and proper care for his patients was impaired.

J. On or about November 11, 1998, Respondent signed an application for staff appointment at St. Barnabas Hospital, Bronx, New York. Respondent responded fraudulently to the following questions on the application:

1. Respondent answered "No" to the question, "Has your . . . appointment status at any health care institution or university ever been voluntarily or involuntarily relinquished, limited, suspended, revoked, denied, reduced, not renewed, or subject to probationary conditions, or have proceedings toward any of these ends been instituted or recommended by an official, committee, or governing board?", when in fact Respondent knew that he had tendered his resignation from Jennings Hospital on or about November 21, 1996, following being summarily suspended on or about November 12, 1996 by Jennings Hospital.
2. In his response to the question "Has your medical staff membership or employment status at any other hospital ever been limited, curtailed, suspended, revoked, denied, reduced, voluntarily or involuntarily relinquished, not renewed or subject to probationary conditions, or have proceedings

toward any of these ends been instituted or recommended by a medical staff official, committee, or governing board?", Respondent failed to include the facts that on or about February 22, 1995, upon removal of the summary suspension at Navapache Hospital, his surgical privileges were restricted; that on or about November 21, 1996, he resigned from Jennings Hospital, following being summarily suspended on or about November 12, 1996 by Jennings Hospital; and/or that on or about November 27, 1997, Opelousas Hospital chose not to grant him associate staff privileges.

3. In Respondent's response to the question, "Have your clinical privileges at any other hospital . . . been limited, curtailed, suspended, revoked, denied, reduced, voluntarily or involuntarily relinquished, not renewed, or subject to probationary conditions, or have proceedings toward any of those ends been instituted or recommended by a medical staff official, committee or governing body?", Respondent failed to include the facts that on or about February 22, 1995, upon removal of the summary suspension at Navapache Hospital, his surgical privileges were restricted; that on or about November 21, 1996 he resigned from Jennings Hospital, following being summarily suspended on or about November 12, 1996 by Jennings Hospital; and/or

that on or about November 27, 1997, Opelousas Hospital chose not to grant him associate staff privileges.

K. On or about December 14, 1998, Respondent signed an application for an appointment to the medical staff at Lincoln Hospital Medical Center and St. Barnabas Hospital, New York. Respondent responded fraudulently to the following questions on the application:

1. Respondent answered "No" to the question, "Have you ever been . . . subject to denial, revocation, suspension, reduction, limitation, probation, non-renewal or voluntary relinquishment of: 4. Membership on any hospital medical staff?", when in fact he knew that he had been denied privileges at Winslow Hospital on or about June 30, 1994; that he had resigned from Jennings Hospital on or about November 21, 1996, following being summarily suspended on or about November 12, 1996 by Jennings Hospital; and/or that on or about November 27, 1997, Opelousas Hospital chose not to grant him associate staff privileges.

2. In response to the question, "Have you ever been . . . subject to denial, revocation, suspension, reduction, limitation, probation, non-renewal or voluntary relinquishment of: 5. Clinical privileges

at any medical facility?", Respondent failed to include the facts that on or about February 22, 1995, his surgical privileges were restricted upon removal of the summary suspension at Navapache Hospital; that on or about November 21, 1996 he had resigned from Jennings Hospital following being summarily suspended by Jennings Hospital on or about November 12, 1996; and/or that on or about November 27, 1997, Opelousas Hospital chose not to grant him associate staff privileges.

3. Respondent answered "No" to the following application question, "Have you ever voluntarily or involuntarily resigned from any health care facility in order to avoid the imposition of disciplinary measures or curtailment of clinical privileges in any way?", when in fact Respondent knew that he had tendered his resignation from Jennings Hospital on or about November 21, 1996 following being summarily suspended on or about November 12, 1996 by Jennings Hospital, due to Hospital concerns that his ability to provide safe and proper care for his patients was impaired.

L. On or about July 17, 1999, Respondent received a Certified letter from the Director of Investigations, Louisiana State Board of Medical Examiners, stating that Respondent's conduct (providing false, sworn and misleading

responses on three applications he submitted to the Board) was under investigation, and inviting Respondent to meet with the Director of Investigations regarding the conduct.

M. On or about August 24, 1999, Respondent signed an application for medical staff appointment with A. O. Fox Hospital, Oneonta, New York. Respondent responded fraudulently to the following questions on the application:

1. Respondent answered "No" to question 1., "Have any disciplinary actions been initiated or are any pending against you by any state licensure board?", when in fact Respondent knew that on or about July 17, 1999, he had received notification from the Louisiana State Board of Medical Examiners that his conduct was under investigation.
2. In his response to the question, "Have you ever resigned from medical staff appointment, clinical privilege or employment at any hospital or other health care facility?", Respondent failed to include the fact that on or about November 21, 1996, he resigned from Jennings Hospital.

N. On or about October 20, 1999, the Louisiana State Board of Medical Examiners issued a Consent Agreement in which Respondent received a public reprimand and was fined \$3,000.00 for the following professional misconduct: (1) on his 1994

application for a Louisiana medical license, Respondent failed to inform the Board that Winslow Hospital denied his application for staff privileges in 1994; (2) on his 1997 license renewal application, Respondent failed to inform the Board that he voluntarily relinquished staff membership at Jennings Hospital, and Respondent denied and failed to advise the Board that he was the subject of disciplinary action or inquiry twice by Jennings; and, (3) on his 1998 license renewal application, Respondent failed to advise the Board that Opelousas Hospital denied his application for staff privileges in 1997.

O. On or about December 14, 1999, Respondent signed an application for appointment to the medical staff of The Hospital, Sidney, New York. Respondent responded fraudulently to the following questions on the application:

1. Respondent answered "No" to question number S.1, "Have you ever been involved in a professional misconduct action?", when in fact he knew that on or about October 20, 1999, the Louisiana State Board of Medical Examiners issued a Consent Agreement in which Respondent received a public reprimand and was fined \$3,000.00 for the following professional misconduct: (1) on his 1994 application for a Louisiana medical license, Respondent failed to inform the Board that Winslow Hospital denied his application for staff privileges in 1994; (2) on

his 1997 license renewal application, Respondent failed to inform the Board that he voluntarily relinquished staff membership at Jennings Hospital, and Respondent denied and failed to advise the Board that he was the subject of disciplinary action or inquiry twice by Jennings; and, (3) on his 1998 license renewal application, Respondent failed to advise the Board that Opelousas Hospital denied his application for staff privileges in 1997.

2. In his response to question number S.4, "Has your membership association, employment or practice at another facility ever been limited, suspended or discontinued?", Respondent failed to include the fact that he had tendered his resignation from Jennings Hospital on or about November 21, 1996, following being summarily suspended on or about November 12, 1996 by Jennings Hospital, due to Hospital concerns that his ability to provide safe and proper care for his patients was impaired.
3. In his response to question S.5., "Have your privileges at any facility ever been denied, suspended, discontinued or granted with stated limitations?", Respondent failed to include the facts that on or about November 21, 1996 he had resigned from Jennings Hospital following being summarily suspended by Jennings Hospital on or about

November 12, 1996; and/or that on or about November 27, 1997, Opelousas Hospital chose not to grant him associate staff privileges.

4. Respondent answered "No" to the question, "Have you voluntarily or involuntarily relinquished your licensure and/or privileges at any facility at any time?", when he knew that on or about November 21, 1996 he had resigned from Jennings Hospital following being summarily suspended by Jennings Hospital on or about November 12, 1996.

P. On or about January 18, 2000, Respondent signed a Registration Remittance Document with the New York State Education Department and fraudulently answered "No" to the question, "2. Since you last filed a registration application: b. Has any other state or country instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence, or revoked, suspended, or accepted surrender of a professional license by you?", when in fact he knew that on or about October 20, 1999, the Louisiana State Board of Medical Examiners had issued a Consent Agreement in which he received a public reprimand and was fined for professional misconduct.

Q. On or about March 28, 2000, Respondent signed an application for appointment to the medical staff of Margaretville Memorial Hospital, Margaretville, New York

(Margaretville Hospital). Respondent responded fraudulently to the following questions on the application:

1. Respondent answered "No" to the question, "Have any of the following ever been or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed in probation, not renewed, or voluntarily relinquished - Membership at any hospital medical staff?", when in fact he knew that he had been denied privileges at Winslow Hospital, on or about June 30, 1994; that he had relinquished his privileges at Jennings Hospital on or about November 21, 1996 following being summarily suspended on or about November 12, 1996 by Jennings Hospital; and/or that on or about November 27, 1997, Opelousas Hospital chose not to grant him associate staff privileges.
2. In his response to the question, "Have any of the following ever been or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed in probation, not renewed, or voluntarily relinquished - Clinical Privileges?", Respondent failed to include the fact that he had tendered his resignation from Jennings Hospital, on or about November 21, 1996 following being summarily suspended on or about November 12, 1996 by Jennings Hospital.

3. Respondent answered "No", to the question, "Any other type of professional sanctions?", when in fact he knew that on or about October 20, 1999, the Louisiana State Board of Medical Examiners had issued a Consent Agreement in which he received a public reprimand and was fined for professional misconduct.

R. On or about June 20, 2000, Respondent signed a letter addressed to the CEO of The Hospital, Sidney, New York, in which he fraudulently stated that with regard to the Louisiana Board of Medicine action, "I was merely reprimanded for forgetting to indicate that I had been rejected at some hospital in Louisiana several years ago on a routine License Renewal Application...", when he in fact knew that he had been reprimanded by the Louisiana State Board for failing to inform the Board: (1) on his 1994 application for licensure, that Winslow Hospital denied his application for staff privileges in 1994; (2) on his 1997 license renewal application, that he voluntarily relinquished staff membership at Jennings Hospital, and that he was the subject of disciplinary action or inquiry twice by Jennings; and, (3) on his 1998 license renewal application, that Opelousas Hospital denied his application for staff privileges in 1997.

S. On or about September 28, 2000, Respondent signed a license renewal form with the Commonwealth of Pennsylvania,

Department of State, Bureau of Professional and Occupational Affairs and fraudulently answered "No" to the question, "Since your last renewal, has another state . . . taken any disciplinary action . . . against you or filed charges against you that have not been resolved in your favor?", when in fact he knew that on or about October 20, 1999, the Louisiana State Board of Medical Examiners issued a Consent Agreement in which Respondent received a public reprimand and was fined for professional misconduct.

SPECIFICATIONS

FIRST SPECIFICATION

DISCIPLINARY ACTION BY ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law §6530(9)(d) in that he had disciplinary action taken against him 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:

1. The facts of paragraph N.

SECOND THROUGH FIFTEENTH SPECIFICATIONS

FRAUDULENT PRACTICE

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

2. The facts set forth in paragraph B.
3. The facts set forth in paragraph C.
4. The facts set forth in paragraph D.
5. The facts set forth in paragraph G.
6. The facts set forth in paragraph H.
7. The facts set forth in paragraphs I and I.1., I and I.2 and/or I and I.3.
8. The facts set forth in paragraphs J and J.1., J and J.2 and/or J. and J.3.
9. The facts set forth in paragraphs K and K.1., K and K.2 and/or K and K.3.
10. The facts set forth in paragraphs M and M.1. and/or M and M.2.
11. The facts set forth in paragraphs O and O.1., O and O.2., O and O.3 and/or O and O.4.
12. The facts set forth in paragraph P.
13. The facts set forth in paragraphs Q and Q.1., Q and Q.2. and/or Q and Q.3.
14. The facts set forth in paragraph R.
15. The facts set forth in paragraph S.

SIXTEENTH THROUGH TWENTY-EIGHTH SPECIFICATIONS

WILLFULLY MAKING OR FILING A FALSE REPORT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(21) by reason of willfully making or filing a false report, in that Petitioner charges:

16. The facts set forth in paragraph B.
17. The facts set forth in paragraph C.
18. The facts set forth in paragraph D.
19. The facts set forth in paragraph G.
20. The facts set forth in paragraph H.
21. The facts set forth in paragraphs I and I.1., I and I.2. and/or I and I.3.
22. The facts set forth in paragraphs J and J.1., J and J.2. and/or J and J.3.
23. The facts set forth in paragraphs K and K.1., K and K.2. and/or K and K.3.
24. The facts set forth in paragraphs M and M.1., M and M.2.
25. The facts set forth in paragraphs O and O.1., O and O.2., O and O.3. and/or O and O.4.
26. The facts set forth in paragraph P.
27. The facts set forth in paragraphs Q and Q.1., Q and Q.2. and/or Q and Q.3.
28. The facts set forth in paragraph S.

TWENTY-NINTH THROUGH FORTY-SECOND SPECIFICATIONS

MORAL UNFITNESS

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

29. The facts set forth in paragraph B.
30. The facts set forth in paragraph C.
31. The facts set forth in paragraph D.
32. The facts set forth in paragraph G.

33. The facts set forth in paragraph H.
34. The facts set forth in paragraphs I and I.1., I and I.2. and/or I and I.3.
35. The facts set forth in paragraphs J and J.1., J and J.2. and/or J and J.3.
36. The facts set forth in paragraphs K and K.1., K and K.2. and/or K and K.3.
37. The facts set forth in paragraphs M and M.1. and/or M and M.2.
38. The facts set forth in paragraphs O and O.1., O and O.2., O and O.3. and/or O and O.4.
39. The facts set forth in paragraph P.
40. The facts set forth in paragraphs Q and Q.1., Q and Q.2. and/or Q and Q.3.
41. The facts set forth in paragraph R.
42. The facts set forth in paragraph S.

DATED: *September 13*, 2001
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. Respondent acknowledges that if he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 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. 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].
4. 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.
5. 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.
6. 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.
7. Respondent shall practice medicine only in a New York Public Health Law Article 28 facility, where close practice oversight is available on a daily basis and where quality assurance and risk management protocols are in effect.
8. Respondent shall forward a copy of the original of all applications he makes in any field of medicine to the Director of OPMC for review.
9. Respondent shall comply with all terms, conditions, restrictions, limitations 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.