



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

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

Karen Schimke
Executive Deputy Commissioner

March 8, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Stein, Esq.
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

Nathan L. Dembin, Esq.
225 Broadway, Suite 1905
New York, New York 10007

MacLean Jadoo, R.P.A.
794 Midwood Street, Apt. 5F
Brooklyn, New York 11203

RECEIVED
MAR 09 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

RE: In the Matter of MacLean Jadoo, R.P.A.

Dear Mr. Stein, Mr. Dembin and Mr. Jadoo:

Enclosed please find the Determination and Order (No. 95-50) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Coming 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), "the 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 black ink that reads "Tyrone T. Butler/rlw". The signature is written in a cursive style with a large initial 'T' and a long, sweeping underline.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

**IN THE MATTER : DETERMINATION
OF : AND
MacLEAN JADOO, R.P.A. : ORDER
: BPMC-95-50**
-----X

PETER D. KUEMMEL, R.P.A., Chairman, **KARLENE CHIN QUEE, M.D.** and **ROBERT J. O'CONNOR, M.D.**, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(10)(e) and 230(12) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this determination and Order.

SUMMARY OF PROCEEDINGS

Commissioner's Order Notice of Hearing:	October 23, 1994
Statement of Charges:	October 20, 1994
Pre-Hearing Conference:	October 27, 1994

Hearing Dates: November 3, 1994
December 12, 1994
December 22, 1994
December 28, 1994
January 4, 1995

Place of Hearing: NYS Department of Health
5 Penn Plaza
New York, New York 10001

Date of Deliberations: February 7, 1995

Petitioner appeared by: Peter J. Millock, Esq.
General Counsel
NYS Department of Health

By: Paul Stein, Esq.
Associate Counsel

Respondent appeared by: Nathan L. Dembin, Esq.
225 Broadway, Suite 1905
New York, New York 10007

WITNESSES

For the Petitioner:

Patient B - Interpreter (Spanish)-Lillian Bond

Patient C

Patient D - Interpreter (Spanish)-Nancy Adler

Patient A - Interpreter (Spanish)-Nancy Adler

Patient E

Executive F

Mercedes Camacho

Executive G

Paul Sher

For the Respondent:

Audrey Jadoo, the Respondent's wife

Anthony Radi, R.P.A.

Mary Wright

MacLean Jadoo, the Respondent

STATEMENT OF CHARGES

Essentially, the Statement of Charges charges the Respondent with fraudulent practice; moral unfitness and wilfully abusing a patient.

The charges are more specifically set forth in the Statement of Charges, a copy of which is attached hereto and made a part hereof.

FINDINGS OF FACT

Numbers in parenthesis refer to transcript pages or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous unless otherwise specified.

GENERAL FINDINGS

1. The Respondent was authorized to practice as a Physician Assistant in New York State on February 1, 1994 by the issuance of license number 004700 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice as a Physician Assistant for the period ending December 31, 1995 (Pet's. Ex. 2).

RESPONDENT'S BACKGROUND / ELMHURST HOSPITAL CLINIC

2. The Respondent, one of ten children, was born in Trinidad, West Indies, and came to the United States in 1970. (Tr. 556-557).
3. In 1991, the Respondent won a scholarship from the Local 1199 Union and was accepted to a Physician Assistant Program through Harlem Hospital. The scholarship which was the first of its kind to be awarded was well publicized and paid for tuition and books. The

Harlem Hospital program was a three year program and was completed by the Respondent in March 1993 (Tr. 565, 567, 569).

4. During the course of his training, the Respondent did a three month rotation at Rikers Island, working six weeks with HIV positive patients and an additional six weeks with primary care patients (Tr. 570).
5. The Respondent also performed a rotation at Elmhurst Hospital during the program. This was a six week rotation, including two weeks in labor and delivery, two weeks in GYN and two weeks in Obstetrics. The Respondent testified that during his two weeks in Obstetrics, he performed only one vaginal examination. Elmhurst Hospital was impressed with him and asked if he would work in their OB/GYN Clinic after he graduated. He began working for Elmhurst Hospital in the beginning of November, 1993 (Tr. 568-569).
6. The Respondent was the first Physician Assistant hired by Elmhurst Hospital, straight from school, and he was assigned to the OB/GYN Department. He worked four hours in the morning in OB and four hours in the evening in GYN (Tr. 577).

7. The OB Clinic was very crowded and patients were constantly overbooked. There was a large volume of patients seen per session. Rooms were across the hall from one another and one could hear someone talking in the next room. The desks in each room faced each other and you could hear through the walls, even if someone was on the phone (Tr. 486, 488).

8. In addition to the scheduled patients, there were several walk-in patients everyday. There were four hour sessions, in which 15 or 16 patients were usually seen per session, although at times there were as many as 24 patients per session. These patients had many problems which are not just routine. Many of them have had no prenatal care at all, and had a multitude of problems which had to be addressed (Tr. 489-490).

9. At any given time, there would be four or five clerical personnel in the clinic main area. They were responsible for bringing patients in, taking care of the paperwork and exiting patients and giving them appointments. There were providers in rooms directly adjacent and across from other providers. There were two or three nurses per aisle always coming in and out. During any given session, there were approximately 100 patients in the waiting area and patients wanting to use the bathroom waited in an area near the Respondent's examining

room. There were three or four providers working at any given time. It is a high volume, high stress type of clinic (Tr. 503, 505, 529).

10. Training and educating new Physician Assistants was difficult because of the busy setting. There was no formal training for a new employee, although they should be (Tr. 512).

11. At the Elmhurst Hospital Clinic the patients have a choice, if they do not want to see a particular provider they don't have to, they will simply get someone else. Any patient coming from an examination and requesting a different provider for the next visit would be given one, no questions asked (Tr. 546, 585-586).

12. The Respondent worked the same amount of hours in the GYN Department as in the OB Department. In the GYN Clinic, the Respondent would see from 15 to 18 patients in one four hour session. In the OB Clinic, the Respondent would see up to 23 patients per session. Patients began to come at 8:00 a.m., work began at 9:00 a.m., and the Respondent would have to see about 17 patients in a two-and-a-half hour period (Tr. 578).

13. Beth Josephs, the Elmhurst Clinic Senior Physician Assistant, observed the Respondent do only one examination, after which, he was left to perform the examinations on his own. Each provider had so many patients that there was no time for supervision (Tr. 581-582).
14. The Respondent began to work on Thursdays, because the Senior Physician Assistant, Beth Josephs, left in the beginning of April and so did another Physician Assistant, Herb Quinn. The clinic was shorthanded and the remaining five providers split the patients of the two Physician Assistants who left (Tr. 584).
15. The conditions at the Elmhurst Hospital Clinic were also very difficult for the Respondent because he did not speak Spanish and 98% of the patients were Spanish speaking. The Respondent had very definite problems with communicating with the patients and explaining what he was going to do and why he was doing it (Tr. 470, 494-495, 585).
16. Physician Assistants have individual preferences for the way they perform vaginal, pelvic and obstetrical examinations. Each practitioner does things a little differently and the Respondent was still learning to do late obstetrical examinations. It takes someone who is just learning to perform the examination a longer time to do it than others who are more

experienced. Although gaining proficiency, the Respondent still had a problem assessing dilation of the cervix (Tr. 496, 501-502, 523).

17. In an obstetrical patient, depending on far along the patient is, but particularly at 36 weeks, the Physician Assistant is assessing the location of the fetal head. Is it vertex? Is it a breach presentation? Is the cervix closed? Is it posterior? Is the baby's head engaged? The provider also wants to assess the actual changes taking place in the cervix, whether open or closed, is it effaced, thinning out or long (Tr. 498, 500).
18. When the Respondent was first hired at the Elmhurst Hospital Clinic there were times that the providers did examinations without chaperons due to a nursing shortage and it did not become a strict policy to have a chaperon till after this instant case (Tr. 525-526).
19. The Hospital protocol requires that a pelvic exam be done on the first visit, regardless of weeks of gestation. When a Physician Assistant sees a patient for the first time, it would not be inappropriate to perform a baseline examination, including a pelvic exam. From 36 weeks to 40 weeks the protocol is to do pelvic examinations weekly (Tr. 527-528, 538).

FINDINGS AS TO PATIENT A

20. Patient A is a thirty one year old mother of two children. She went to the Elmhurst Hospital Clinic and saw the Respondent for her second pregnancy. Patient A's baby was born May 9, 1994, although her due date was June 1, 1994. Patient A speaks very little English and required an interpreter (Pet's. Ex. 3; Tr. 194-196, 216).

21. The Respondent saw Patient A for the first time on April 7, 1994. Patient A had second trimester bleeding and threatened abortion requiring an emergency room visit. Patient A testified that Mr. Jadoo put on gloves and that she was given a robe to cover herself (Pet's. Ex. 3; Tr. 197, 200, 728-731).

22. On the April 7, 1994 visit, the Respondent performed a pelvic examination on Patient A in accordance with hospital policy to perform a full examination the first time a patient is seen, a baseline examination and evaluation (Tr. 735).

23. The Respondent was Patient A's Physician Assistant for her second visit on April 21, 1994, and she did not object to him when he called out her name. Patient A testified that she was again provided with a gown to put on and that the Respondent was wearing gloves. Patient A asked the Respondent the purpose of the examination, and he explained that it was to check the position of the baby (Tr. 201, 209-210, 215, 736).
24. During the performance of the rectal-vaginal examinations on April 7, 1994 and April 21, 1994, the Respondent rubbed Patient A's labia with his fingers, inserted his finger into her vagina, rubbed her clitoris with his finger, inserted another finger into her rectum and simultaneously moved his fingers in and out of her rectum and vagina (Tr. 197, 200-202, 207-208).
25. Patient A did not observe a chaperon in the room at the time of the examinations on April 7, 1994 and April 21, 1994 (Tr. 197, 200-202, 207).
26. Patient A did not voice any complaints to anyone regarding the Respondent's examinations at the time they were performed on April 1 and 21, 1994 (Tr. 736).

FINDINGS AS TO PATIENT B

27. Patient B speaks only Spanish and testified through an interpreter. She gave birth to a baby, her first, on May 16, 1994 and had gone to the prenatal clinic at Elmhurst Hospital for approximately six months. She had never had a vaginal examination prior to that time.
- The Respondent was not the first Physician Assistant or Physician that Patient B saw at the Elmhurst Clinic. The Respondent did not begin caring for Patient B until approximately her eighth month (Pet's. Ex. 4; Tr. 30-32, 57, 78).
28. The Respondent did not examine Patient B on March 23, 1994. He first saw her on April 13, 1994 and saw her again on May 4, 1994 (Pet's. Ex. 4, p. 58; Tr. 600).
29. When the Respondent first saw Patient B on April 13, 1994, her gestational age was 36 weeks. It is Hospital protocol to do a vaginal exam at that time (Tr. 603).
30. During the performance of the rectal-vaginal examination on April 13, 1994, the Respondent rubbed Patient B's labia with his fingers, rubbed her clitoris with his fingers and moved his

fingers in and out of her vagina. He also touched Patient B's perianal area with his fingers while he inserted another finger in her vagina (Tr. 36-37, 39, 41, 46).

31. Patient B did not observe a chaperon in the room at the time of the rectal-vaginal examination. She did not receive a gown to wear and the Respondent wore gloves (Tr. 39, 45).
32. Patient B did not voice any complaints on April 13, 1994, but she testified that she did not keep her next clinic appointment because she was frightened and nervous (Tr. 40, 69, 605).
33. After skipping one clinic appointment, she took her husband on her next visit, May 4, 1994, and he accompanied her into the examining room (Tr. 40-41).
34. On the May 4, 1994 visit, Patient B was 39 weeks pregnant and the Respondent examined her on that date. There are no allegations of impropriety regarding the May 4, 1994 examination (Pet's. Ex. 4; Tr. 606, 614).

FINDINGS AS TO PATIENT C

35. On February 2, March 2, March 30, and April 20, 1994, Patient C, a pregnant 30 year old woman, whose estimated date of confinement was May 23, 1994, attended the Elmhurst Hospital Center, Obstetrical Clinic, for prenatal care and was seen by the Respondent in his capacity as a Physician Assistant (Pet's. Ex. 5; Tr. 87-88).

36. On each of the visits, February 2, March 2, March 30 and April 20, 1994, the Respondent performed a vaginal examination on Patient C. On each occasion, the Respondent instructed the patient to disrobe from the waist down. Patient C testified that she was not provided with a gown to cover herself (Tr. 89-91, 95, 100-102).

37. During the performance of each of the vaginal examinations, the Respondent rubbed Patient C's labia with his fingers, rubbed her clitoris with his fingers, and inserted a finger in her vagina with great force (Tr. 90-103).

38. Patient C testified that the Respondent did not wear gloves when he performed the vaginal examination on February 2, 1994. She also testified that, at that visit, he asked her if she had much sex with her husband (Tr. 90, 101).
39. Patient C also testified that during the April 20, 1994 examinations, the Respondent squeezed her buttocks with his hands and asked her if it hurt. She also stated that during one of the vaginal examinations, the Respondent also inserted his finger into her rectum (Tr. 94-95, 103).
40. Patient C did not observe a chaperon in the room at the time of the vaginal examinations (Tr. 89-103).
41. Patient C did not voice any complaints to anyone regarding the Respondent's examinations at the time they were performed, but did complain on May 10, 1994 to Ura Khumar, the Physician Assistant at the clinic who treated her after the Respondent had been terminated (Tr. 682-683).

FINDINGS AS TO PATIENT D

42. Patient D speaks Spanish and testified through an interpreter. On April 14, 1994, Patient D, a pregnant 26 year old woman, whose estimated date of confinement was May 15, 1994, attended the Elmhurst Hospital Center, Obstetrical Clinic, for prenatal care and was seen by Respondent in his capacity as a registered Physician Assistant (Pet's. Ex. 6; Tr. 155-157). The Respondent instructed Patient D to disrobe from the waist down for a vaginal examination. He told her that he had to examine her because she had an infection. The Patient testified that she was not provided with a gown to cover herself (Tr. 158-159, 188-189).
43. During the performance of the vaginal examination, the Respondent touched Patient D's labia with his fingers, and inserted his fingers into her vagina, withdrawing and inserting them several times. He also attempted to insert his finger into the patient's rectum. Patient D could not recall whether or not the Respondent wore gloves during the examination (Tr. 159-161, 166, 188).

44. Patient D did not observe a chaperon in the room at the time of the vaginal examination (Tr. 158-159, 188, 189).

45. Patient D had a history of syphilis infections. When the Respondent reviewed her medical records he called an interpreter to explain to her that her syphilis was active; the severity of the disease and the effects it could have on the baby, such as possible blindness and brain damage (Pet's Ex. 6 pp. 34, 38, 95; Tr. 707-710).

46. The Respondent took Patient D to a nurse to further discuss the severity of the disease and to reinforce his warnings because she had been repeatedly cured of syphilis only to be reinfected. The nurse confirmed in the medical records that she followed up the patient as per the Respondent's instructions. In addition to the syphilis, the Patient had elevated AFP levels, making her a high risk patient who needed to be followed carefully. She was frequently called to the Sexually Transmitted Disease Clinic (Pet's. Ex. 6, pp. 34, 38; Tr. 708-710).

FINDINGS AS TO PATIENT E

47. Patient E is a 60 year old woman, who had been going to the Brooklyn Medical Group, P.C. Empire HIP Center, 546 Eastern Parkway, Brooklyn, since 1979. Patient E saw the Respondent for the first time on September 12, 1994. She went to the HIP Center at that time for a sprained ankle which she actually hurt on September 2, 1994 (Tr. 223-225, 240).
48. Patient E arrived at the HIP Center and went to the Emergency Department, where they took her statement and blood pressure and referred her to the Respondent (Tr. 225).
49. Patient E presented to the Emergency Room with a walking cane and when the Respondent examined her ankles there was no swelling or edema and on palpation there was full range of motion and minimal tenderness. These findings were inconsistent with the Patient's complaints and the Respondent did not know what was going on (Tr. 794-795, 800).
50. The Respondent instructed Patient E to lie down on the examination table. While she was lying on her back, the Respondent lifted up her skirt, spread her legs apart, pulled her undergarments to the side, inserted several fingers in to her vagina and moved his fingers

inside her vagina for approximately two to three minutes. Patient E testified that the Respondent was not wearing gloves at the time (Tr. 226-231).

51. The Respondent advised Patient E to follow up with a private physician because he did not know what was going on. He was concerned about the possibility of pelvic fracture because of her age and her chief complaint was not showing anything (Tr. 802-803).
52. On October 11, 1994, after having been questioned by the Administration of the HIP Group about Patient E's clinic visit, the Respondent, on his own initiative, called Patient E at her home telephone number, identified himself and said, "You remember, I told you why I did that to you." (Tr. 235-236, 807-809).

FINDINGS AS TO ELMHURST HOSPITAL CENTER TERMINATION NOTIFICATION

53. The Respondent was employed as a Physician Assistant at Elmhurst Hospital Center from approximately October 18, 1993 until May 10, 1994 (Tr. 339).

54. On May 10, 1994, Executive H, the Mount Sinai Services Affiliation Administrator at Elmhurst Hospital Center, sent a letter by certified mail, return receipt requested to the Respondent which stated, "This is pursuant to the decision to suspend you from duty with pay on May 5, 1994, pending the results of our investigation of patients' allegations of your professional misconduct. This investigation has established substantial documentation obtained from a number of patients supporting these allegations. Therefore, your employment with Mount Sinai Services is terminated effective May 10, 1994." (Pet's. Ex. 11; Tr. 339-341).
55. The Respondent received the termination letter on or before May 16, 1994 (Pet's. Ex. 11; Tr. 344, 347, 766).
56. On May 16, 1994, Executive H, Dr. Berry Brown (Chief of Obstetrics), and Ms. Virginia Birt (Director of Human Resources) met with the Respondent in Executive H's office, and Executive H advised the Respondent that the reason for his termination was "the allegations that we had received following our investigation into the initial complaint, allegation made by several patients at the hospital regarding Mr. Jadoo's conduct." (Tr. 339,343-344, 346, 786).

57. As of May 16, 1994, at the latest, Respondent knew that the reason he was terminated from employment at Elmhurst Hospital Center was because of allegations of professional misconduct made against him by patients (Pet's. Ex. 11; Tr. 339-341, 343-344, 346, 347, 786).

FINDINGS AS TO MITCHELL/MARTIN, INC. AND THE EXECUTIVE HEALTH GROUP

58. On May 23, 1994, the Respondent began approximately nine days of employment as a Physician Assistant at the Spofford Youth Detention Center, Bronx, New York, on a per diem basis, a position obtained through application to the employment agency Mitchell/Martin, Inc., 80 Wall Street, New York, New York and through application to the contractor The Executive Health Group, 777 Third Avenue, New York, New York (Pet's. Ex. 8 & 9; Tr. 293).
59. During the approximate period April 7 through May 23, 1994, as part of the application process at the Mitchell/Martin employment agency, the Respondent, intentionally, with the intent to deceive, told Executive F, manager of Physician Assistant recruitment for the

agency, (and a Certified Personnel Consultant) that he had been terminated from his employment at Elmhurst Hospital because he had requested funds to attend a Physician Assistant conference, and when the administration was not forthcoming in providing the funds, he had walked out, although the Respondent knew this statement to be false (Pet's. Ex. 11; Tr. 289-292, 786).

60. On May 23, 1994, as part of the employment application process for the Executive Health Group, the Respondent, intentionally, with the intent to deceive, filled out and signed an application for employment with the Executive Health Group, including a section entitled "Employment Data", and failed to include his employment as a Physician Assistant at Elmhurst Hospital Center and the reason for the termination of that employment (Pet's. Exs. 9 and 11; Tr. 768-769, 786).

61. If Respondent had told Executive F that he had been terminated from his employment as a Physician Assistant at the Elmhurst Hospital OB/GYN Clinic because of the allegations of sexual abuse of patients, she would not have given him any further consideration as a job applicant until the issue was resolved (Tr. 296).

FINDINGS AS TO THE BROOKLYN MEDICAL GROUP, P.C.

62. On June 27, 1994, the Respondent was hired to work as a Physician Assistant at the Brooklyn Medical Group, P.C. ("the Brooklyn Group"), Empire HIP Center, located at 546 Eastern Parkway, Brooklyn, New York, to treat walk-in patients at their Urgent Care Center (Pet's. Ex. 10; Tr. 376).
63. On May 10, 1994, as part of the employment application process for the Brooklyn Group, the Respondent intentionally, with the intent to deceive, submitted a C.V. that failed to mention under the heading of "Health Related Positions" or elsewhere on the C.V., the fact that he had been employed as a Physician Assistant at Elmhurst Hospital Center (Pet's. Ex. 10 and 11; Tr. 383, 786).
64. On May 20, 1994, as part of the employment application process for the Brooklyn Group, the Respondent, intentionally, with the intent to deceive, filled out and signed an application for employment with the Group, including a section entitled "Employment History", and failed to include his employment as a Physician Assistant at Elmhurst Hospital Center (Pet's Ex. 10 and 11; Tr. 379-382, 786).

65. In May, 1994, as part of the employment application process for the Brooklyn Group, the Respondent intentionally, with the intent to deceive, told Executive G, Human Resources Administrator of the Brooklyn Group, that he had no previous experience working as a Physician Assistant, although he knew this statement to be false (Pet's. Exs. 9 and 11; Tr. 374, 378-382, 786).
66. On August 1, 1994, as part of the employment application process for the Brooklyn Group, the Respondent intentionally, with the intent to deceive, told Executive G, Human Resources Administrator of the Brooklyn Group, that his only previous employment experience as a Physician Assistant had been on a per diem basis through an employment agency, for a total of eight days, although he knew this statement to be false (Pet's. Ex. 11; Tr. 379, 384, 786).
67. If the Respondent, when applying for a position with the Brooklyn Medical Group had either told Executive G orally or filled out an application which indicated that he had prior experience at the Prenatal Clinic at Elmhurst Hospital Center and had been terminated because of allegations of sexual abuse of patients, Executive G would not have given him any further consideration as a candidate for employment (Tr. 384-385).

HEARING COMMITTEE DISCUSSION

The Respondent testified that based on his experiences at Harlem Hospital, where there is a high incident of HIV and STD's, he always wore gloves, even double gloves when performing vaginal examinations (Tr. 587-588, 683).

Anthony Radi, R.P.A., who worked with the Respondent at the Elmhurst Hospital OB/GYN Clinic, testified that he never saw the Respondent not wear gloves during an examination (Tr. 536).

Mary Wright, a nurse assistant who has been employed by Elmhurst Hospital for eighteen years, testified that she had observed the Respondent wearing gloves, and on occasion he wore two pairs, two gloves on each hand (Tr. 545).

Patient A testified that the Respondent put gloves on prior to the examinations (Tr. 197, 215).

Patient B never indicated that the Respondent did not wear gloves during her examinations. Patient D did not recall whether the Respondent was wearing gloves or not (Tr. 188). Patient C testified that the Respondent did not wear gloves during the February 2, 1994 examination (Tr. 90). Patient E also testified that the Respondent did not wear gloves when he examined her (Tr. 231).

The Respondent testified that when a pelvic examination is to be performed at the Elmhurst Hospital OB/GYN Clinic the nurse will automatically come into the room to assist the patient; drape the patient; pull the screen and remain in the room while the practitioner is performing the

examination. The Respondent contends that the nurse can see everything that is going on, but the patient cannot see the nurse (Tr. 591-593).

Nurse Assistant Mary Wright testified that it is the responsibility of the nurse to provide gowns to the patients (Tr. 548). Anthony Radi, R.P.A. testified that the nurses generally come into the examination room and gives a gown to the patient. The nurse will instruct the patient; help her to get undressed and help her to put on the gown (Tr. 526, 548).

Patient A testified that she was given a gown (Tr. 200). Patient B testified that the Respondent gave her a gown and that she put it on behind the partition (Tr. 33, 73-74). Patient C testified that she was not given a gown, but testified that she believed that it was the Physician Assistant's responsibility to give patients a gown (Tr. 116). Patient D testified that she was not provided with a gown (Tr. 159).

The testimony on the record regarding the Respondent's use of gloves when performing pelvic examinations, and the presence of chaperons during the examinations is contradictory and the Hearing Committee concludes that the evidence is such that the Hearing Committee is unable to say that there is a preponderance of evidence on either side.

With regard to the providing of gowns to patients who were to undergo pelvic examinations, the Hearing Committee concludes that given the high volume of patients at the clinic it was probably mere inadvertence that Patients C and D were not provided with gowns.

CONCLUSIONS OF THE HEARING COMMITTEE

The Hearing Committee has reviewed the entire record in this case and unanimously concludes that the Respondent's difficulties with Patients A,B,C,D and E are attributable to the Respondent's lack of skill, lack of experience, lack of supervision and lack of communication skills with his patients.

Four of the patients in this case, Patients A,B,C and D were mature pregnant women who testified about examinations performed by the Respondent in the late stages of their pregnancies.

Patients A,B and D speak Spanish and testified through interpreters at the hearings. The Respondent does not speak Spanish. There was obviously a problem with communication between the Respondent and the patients.

The examinations complained of were either rectal-vaginal or vaginal examinations. Such examinations are required by hospital protocol.

In each case, the Statement of Charges alleges that the Respondent massaged the Patient's labia with his fingers and manipulated the Patients' clitoris with his fingers.

Patient D testified that the Respondent touched her labia; the other patients testified that the Respondent rubbed their labia and rubbed their clitoris.

The Hearing Committee concludes that during the performance of a legitimate rectal-vaginal or vaginal examination, the practitioners fingers will inevitably touch the patients labia and clitoris. The Hearing Committee also concludes that the fact that some of the patients described the touching as "rubbed" is attributable to the Respondent's lack of skill and experience which would also account for the length of time it took the Respondent to complete the examinations.

Patient B believed that it was unnecessary for the Respondent to perform a vaginal examination at all, and she was not expecting one to be done. She also believed that it was not normal because the same examination had been done two weeks prior and she thought it was unnecessary to repeat it.

Patient C had multiple problems, in addition to the progressively worsening back pain which required assessment by vaginal exam. She had a polypoidal mass in the uterus, as well as a strongly elevated alphafetoprotein level, which required genetic counseling and made her a high risk patient. The Respondent performed an examination on February 2, 1994, in accordance with hospital protocol that a baseline exam be performed during a patient's first visit. Examinations were warranted on March 2, 1994 and March 30, 1994 because of the continued back pain, polypoidal mass and elevated AFP. By April 20, 1994, the patient was almost nine months pregnant.

Examinations were also indicated on April 25, 1994 and May 3, 1994 when the patient was 36 and 37 weeks respectively.

On April 20, 1994, the Respondent examined Patient C's lower back region for pain and tenderness. It was not inappropriate for the Respondent to ask Patient C about having sex with her husband. The question was appropriate to evaluate if she was sexually active. Since she had a polypoidal mass in the uterus, with sexual activity, the mass could become inflamed and this could account for the persistent and worsening back pain.

The rectal examinations performed on Patient C by the Respondent on April 25, 1994 and May 3, 1994, were required by hospital protocol.

Patient D was a high risk patient and the Respondent's pelvic examination of this patient was required by hospital protocol. When he touched her labia during the examination he was looking for lesions, herpetic lesions and tenderness.

The Respondent did not know what was happening with Patient E. There was nothing with her ankle, no DVT, no pain, no swelling, no tenderness. The Respondent believed it was appropriate to look for tenderness in the vagina which would be indicative of a pelvic fracture.

The Respondent advised Patient E to follow up with a private medical doctor, because he did

not know what was going on with her. He was concerned about the possibility of pelvic fracture because of her age and because her chief complaint was not showing anything.

Considering the age of the patient, the possibility of osteoporosis and the suspicion that the patient may have fractured her pelvis or hip, a pelvic examination was not unwarranted.

The Hearing Committee concludes that the Respondent's examinations of Patients A, B, C, D and E were performed for legitimate medical purposes and not for any immoral, prurient or sexual purpose and did not evidence moral unfitness or the wilful abusing of patients.

However, the Hearing Committee also concludes that the Respondent has engaged in the fraudulent practice of medicine by intentionally stating false reasons for his termination from the Elmhurst Hospital to Mitchell/Martin Recruitment Agency, and intentionally, with the intent to deceive, failing to include his employment with Elmhurst Hospital on applications for employment with the Executive Health Group and Brooklyn Medical Group HIP Center.

VOTE OF THE HEARING COMMITTEE

(All Votes Were Unanimous)

FIRST THROUGH SEVENTH SPECIFICATIONS: (Fraudulent Practice)

SUSTAINED As to those charges specified in paragraphs F1, F2, G1, G2, G3 and G4 of the Statement of Charges.

NOT SUSTAINED As to those charges specified in paragraphs A1, A2, A3, A4, B1, B2, B3, B4, B5, C1, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11, C12, C13, D1, D2, D3, E1, and E2 of the Statement of Charges.

**EIGHTH THROUGH TWELFTH SPECIFICATIONS:
(Moral Unfitness)**

NOT SUSTAINED As to any of the charges.

**THIRTEENTH THROUGH SEVENTEENTH SPECIFICATIONS:
(Willfully abusing a patient)**

NOT SUSTAINED As to any of the charges.

HEARING COMMITTEE DETERMINATION

The Hearing Committee has concluded that the Respondent's difficulties with Patients A,B,C,D and E are attributable to the Respondent's lack of skill, lack of experience, lack of supervision and a lack of communication skills with his patients.

The Hearing Committee also concluded that the Respondent's examinations of Patients A, B, C, D and E were performed for legitimate medical purposes and not for any immoral, prurient or sexual purpose and did not evidence moral unfitness or the wilful abusing of patients.

However, the Hearing Committee also concluded that the Respondent had engaged in the

fraudulent practice of medicine by intentionally stating false reasons for his termination from the Elmhurst Hospital to Mitchell/Martin Recruitment Agency, and intentionally, with the intent to deceive, failing to include his employment with Elmhurst Hospital on applications for employment with the Executive Health Group and Brooklyn Medical Group HIP Center.

Considering all of the circumstances of this case, the Hearing Committee determines that an appropriate penalty would be a three year suspension, suspension stayed, with the Respondent placed on probation under the terms hereinafter set forth.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice as a Physician's Assistant in the State of New York is **SUSPENDED** for a period of three years, **SUSPENSION STAYED** subject to the following conditions.

Unless otherwise indicated, these conditions shall remain in effect for a period of three years after the effective date of this Order.

2. The Respondent shall be supervised in his practice as a Physician Assistant by a licensed physician who is familiar with the Respondent's history and with the terms of this Order and who is approved by the Director of the Office of Professional Medical Conduct.

3. The Respondent shall obtain a successor supervising licensed physician, subject to the approval of the Director of the Office of Professional Medical Conduct, within seven (7) days of the Respondent's becoming aware that his initial supervisor will no longer serve as a supervising physician.

4. The supervising physician, or an approved successor supervising physician, shall supervise the Respondent's practice as a Physician Assistant. The supervising physician, shall submit a report to the Office of Professional Medical Conduct every three (3) months detailing the quality of the Respondent's medical practice. Said report shall include the Respondent's progress in the assessment of patients; his performance of clinical examinations; his clinical judgement; his communication skills and his record keeping.

5. During the period of probation, the Respondent shall not examine a female patient without a chaperon.

6. Failure to comply with any of the conditions above will result in automatic reinstatement of the three year suspension of the Respondent's license to practice as a Physician Assistant upon notice to the Respondent.

7. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: March 3, 1995
 , New York



PETER D. KUEMMEL, R.P.A.

KARLENE CHIN QUEE, M.D.
ROBERT J. O'CONNOR

APPENDIX I

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

-----:
IN THE MATTER : COMMISSIONER'S
OF : ORDER AND
MACLEAN JADOO, R.P.A. : NOTICE OF HEARING
-----:

TO: MACLEAN JADOO, R.P.A.
794 Midwood Street, Apt. 5F
Brooklyn, NY 11203

The undersigned, Mark R. Chassin, M.D., Commissioner of Health of the State of New York, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by MACLEAN JADOO, R.P.A., 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. 1994), that effective immediately MACLEAN JADOO, R.P.A., 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. 1994).

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. 1994), and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 3rd and 10th days of November, 1994 at 10:00 a.m. at 5 Penn Plaza, 6th Floor, New York, NY 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. 1994). YOU ARE URGED TO
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS
MATTER.

DATED: New York, New York
October 23, 1994



MARK R. CHASSIN, M.D.
Commissioner of Health

Inquiries should be directed to:
PAUL STEIN
Associate Counsel
N.Y.S. Department of Health
5 Penn Plaza, Room 601
New York, NY 10001
(212) 613-2617

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

-----X

In the Matter : STATEMENT
of : OF
MACLEAN JADOO, R.P.A. : CHARGES

-----X

MACLEAN JADOO, R.P.A., the Respondent, was authorized to practice as a registered physician's assistant in New York State on February 1, 1994 by the issuance of license number 004700 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice as a registered physician's assistant for the period ending December 31, 1995. His current registration address is 794 Midwood Street, Apartment 5F, Brooklyn, New York 11203.

FACTUAL ALLEGATIONS

- A. On or about April 7 and April 21, 1994, Patient A (all individuals are identified in Appendix A), a pregnant 31 year old woman, whose estimated date of confinement was June 3, 1994, attended the Elmhurst Hospital Center, Obstetrical Clinic, 79-01 Broadway, Elmhurst, New York 11373, for prenatal care and was seen by Respondent in his capacity as a registered physician's assistant.

1. On or about April 7, 1994, Respondent instructed Patient A to disrobe from the waist down for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse or other female chaperone.
2. On or about April 7, 1994, during what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent massaged Patient A's labia with his fingers, inserted his finger into her vagina, manipulated her clitoris with his finger, inserted another finger into Patient A's rectum, and simultaneously moved his fingers in and out of her rectum and vagina repeatedly.
3. On or about April 21, 1994, Respondent instructed Patient A to disrobe from the waist down for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse or other female chaperone and failed to provide a gown or other drape to cover Patient A's unclothed body.
4. On or about April 21, 1994, during what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent massaged Patient

A's labia with his fingers, manipulated her clitoris with his finger, inserted another finger into Patient A's rectum, and simultaneously moved his fingers in and out of her rectum and vagina repeatedly.

- B. On or about March 23 and April 13, 1994, Patient B, a pregnant 18 year old woman, whose estimated date of confinement was May 8, 1994, attended the Elmhurst Hospital Center, Obstetrical Clinic, 79-01 Broadway, Elmhurst, New York 11373, for prenatal care and was seen by Respondent in his capacity as a registered physician's assistant.
1. On or about March 23, 1994, Respondent instructed Patient B to disrobe for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse or other female chaperone.
 2. On or about March 23, 1994, during what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent massaged Patient B's labia repeatedly with his fingers and manipulated her clitoris with his fingers, all of which took place for approximately four or five minutes.

3. On or about April 13, 1994, Respondent instructed Patient B to disrobe for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse or other female chaperone.
 4. On or about April 13, 1994, during what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent massaged Patient B's labia repeatedly with his fingers, manipulated her clitoris with his fingers, and moved his fingers in and out of her vagina, all of which took place for a total of approximately five minutes.
 5. On or about either March 23 or April 13, 1994, during what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent touched Patient B's perianal area with his fingers while he inserted another finger in her vagina.
- C. On or about February 2, March 2, March 30, and April 20, 1994, Patient C, a pregnant 30 year old woman, whose estimated date of confinement was May 23, 1994, attended the Elmhurst Hospital Center, Obstetrical Clinic,

79-01 Broadway, Elmhurst, New York 11373, for prenatal care and was seen by Respondent in his capacity as a registered physician's assistant.

1. On or about February 2, 1994, Respondent instructed Patient C to disrobe from the waist down for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse or other female chaperone, and failed to provide a gown or other drape to cover Patient C's unclothed body.
2. On or about February 2, 1994, during the course of what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent inserted his ungloved fingers in Patient C's vagina.
3. On or about February 2, 1994, during the course of what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent massaged Patient C's labia with his fingers, manipulated her clitoris with his finger, and inserted a finger into her vagina with great force.

4. On or about March 2, 1994, Respondent instructed Patient C to disrobe from the waist down for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse or other female chaperone and failed to provide a gown or other drape to cover Patient C's unclothed body.
5. On or about March 2, 1994, during the course of what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent massaged Patient C's labia with his fingers, manipulated her clitoris with his finger, and inserted a finger into her vagina with great force.
6. On or about March 30, 1994, Respondent instructed Patient C to disrobe from the waist down for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse or other female chaperone and failed to provide a gown or other drape to cover Patient C's unclothed body.
7. On or about March 30, 1994, during the course of what was purported to be a legitimate physical

examination, but not for a proper medical purpose, Respondent massaged Patient C's labia with his fingers, manipulated her clitoris with his finger, and inserted a finger into her vagina with great force.

8. On or about April 20, 1994, Respondent instructed Patient C to disrobe from the waist down for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse or other female chaperone and failed to provide a gown or other drape to cover Patient C's unclothed body.
9. On or about April 20, 1994, during the course of what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent squeezed Patient C's buttocks with his hands and asked her whether that hurt.
10. On or about April 20, 1994, during the course of what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent massaged Patient C's labia with his fingers, manipulated her clitoris with his finger, and thrust his finger into her vagina with great force.

11. On or about April 20, 1994, Respondent inappropriately told patient C, "You're a strong woman. You didn't surrender."
 12. On or about April 20, 1994, Respondent inappropriately asked Patient C whether she had much sex with her husband.
 13. On or about either February 2, 1994, March 2, 1994, March 30, 1994 or April 20, 1994, during what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent inserted his finger into Patient C's rectum.
- D. On or about April 14, 1994, Patient D, a pregnant 26 year old woman, whose estimated date of confinement was May 15, 1994, attended the Elmhurst Hospital Center, Obstetrical Clinic, 79-01 Broadway, Elmhurst, New York 11373, for prenatal care and was seen by Respondent in his capacity as a registered physician's assistant.
1. On or about April 14, 1994, Respondent instructed Patient D to disrobe from the waist down for what was purported to be a legitimate physical examination, but failed to provide the presence of a female nurse

or other female chaperone and failed to provide a gown or other drape to cover Patient D's unclothed body.

2. On or about April 14, 1994, during what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent massaged Patient D's labia with his fingers, manipulated her clitoris with his fingers, and inserted his fingers into her vagina, withdrawing and inserting his fingers several times.

3. On or about April 14, 1994, during what was purported to be a legitimate physical examination, but not for a proper medical purpose, Respondent attempted to insert his finger into Patient D's rectum.

E. On or about September 12, 1994, Patient E, a 60 year old woman, visited The Brooklyn Medical Group, P.C. ("the Brooklyn Group"), Empire HIP center, 546 Eastern Parkway, Brooklyn, New York, for treatment of a sprained left ankle and was seen by Respondent in his capacity as a registered physician's assistant.

1. At that visit, with no female nurse or other female chaperone present, Respondent instructed Patient E to

lie down on an examination table for what was purported to be a legitimate physical examination, but not for a legitimate medical purpose, and while Patient E was lying on her back on the examination table, Respondent lifted up her skirt, spread her legs apart, pulled her undergarments to the side, inserted several fingers into her vagina without using a glove, and moved his ungloved fingers inside her vagina for approximately two to three minutes.

2. On or about October 11, 1994, Respondent, after having been questioned by the administration of the Brooklyn Group about the above-mentioned incident, on his own initiative, called Patient E at her home telephone number, identified himself and said, "You remember, I told you why I did that to you."

F. On or about May 23, 1994, Respondent began approximately nine days of employment as a physician's assistant at the Spofford Youth Detention Center, Bronx, New York, on a per diem basis, a position obtained through application to the employment agency Mitchell/Martin, Inc., 80 Wall Street, New York, New York and through application to the contractor The Executive Health Group, 777 Third Avenue, New York, New York.

1. During the approximate period April 7 through May 23, 1994, as part of the application process at the Mitchell/Martin employment agency, Respondent, intentionally, with the intent to deceive, told Executive F, manager of physician's assistant recruitment for the agency, that he had been terminated from his employment at Elmhurst Hospital because he had requested funds to attend a physician's assistant conference, and when the administration was not forthcoming in providing the funds, he had walked out, although Respondent knew this statement to be false.

2. On or about May 23, 1994, as part of the employment application process for The Executive Health Group, Respondent, intentionally, with the intent to deceive, filled out and signed an application for employment with The Executive Health Group, including a section entitled "Employment Data", and failed to include his employment as a physician's assistant at Elmhurst Hospital Center and the reason for termination of that employment.

- G. On or about June 27, 1994, Respondent was hired to work as a physician's assistant at The Brooklyn Medical Group, P.C. ("the Brooklyn Group"), Empire HIP center, located

at 546 Eastern Parkway, Brooklyn, New York, to treat walk-in patients at their urgent care center.

1. On or about May 10, 1994, as part of the employment application process for the Brooklyn Group, Respondent intentionally, with the intent to deceive, submitted a C.V. that failed to mention under the heading of "Health Related Positions" or elsewhere on the C.V. the fact that Respondent had been employed as a physician's assistant at Elmhurst Hospital Center.
2. On or about May 20, 1994, as part of the employment application process for the Brooklyn Group, Respondent, intentionally, with the intent to deceive, filled out and signed an application for employment with the Group, including a section entitled "Employment History", and failed to include his employment as a physician's assistant at Elmhurst Hospital Center.
3. In or about May, 1994, as part of the employment application process for the Brooklyn Group, Respondent intentionally, with the intent to deceive, told Executive G, human resources administrator of the Brooklyn Group, that he had no previous

experience working as a physician's assistant, although Respondent knew this statement to be false.

4. On or about August 1, 1994, as part of the employment application process for the Brooklyn Group, Respondent intentionally, with an intent to deceive, told Executive G, human resources administrator of the Brooklyn Group, that his only previous employment experience as a physician's assistant had been on a per diem basis through an employment agency, for a total of eight days, although Respondent knew this statement to be false.

SPECIFICATIONS

FIRST THROUGH SEVENTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with practicing the profession fraudulently within the meaning of N.Y. Educ. Law, Section 6530(2) (McKinney Supp. 1994), in that Petitioner specifically charges:

1. The facts in Paragraphs A and A1-4.
2. The facts in Paragraphs B and B1-5.
3. The facts in Paragraphs C and C1-13.

4. The facts in Paragraphs D and D1-3.
5. The facts in Paragraphs E and E1.
6. The facts in Paragraphs F and F1-2.
7. The facts in Paragraphs G and G1-4.

EIGHTH THROUGH TWELFTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law Section 6530(20) (McKinney Supp. 1994) by engaging in conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner specifically charges:

8. The facts in Paragraphs A and A1-4.
9. The facts in Paragraphs B and B1-5.
10. The facts in Paragraphs C and C1-13.
11. The facts in Paragraphs D and D1-3.
12. The facts in Paragraphs E and E1-2.

THIRTEENTH THROUGH SEVENTEENTH SPECIFICATIONS

WILLFULLY ABUSING A PATIENT

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law Section 6530(31) (McKinney Supp. 1994), by willfully harassing, abusing, or intimidating a patient either physically or verbally, in that Petitioner specifically charges:

13. The facts in Paragraphs A and A1-4.
14. The facts in Paragraphs B and B1-5.
15. The facts in Paragraphs C and C1-13.
16. The facts in Paragraphs D and D1-3.
17. The facts in Paragraphs E and E1-2.

DATED: New York, New York
October 20, 1994



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

SUMMARY OF DEPARTMENT OF HEALTH HEARING RULES

(Pursuant to Section 301 SAPA)

The following items are addressed by the Uniform Hearing Procedures Rules of the New York State Department of Health:

Applicability

Definitions

Notice of Hearing

Adjournment

Answer or Responsive Pleading

Amendment of Pleadings

Service of Papers

Discovery

Hearing Officer/Pre-Hearing Conference

Pre-Hearing Conference

Stipulations and Consent Orders

The Hearing

Hearing Officer's Report

Exceptions

Final Determination and Order

Waiver of Rules

Time Frames

Disqualification for Bias

The exact wording of the rules is found at 10 NYCRR Part 51 of Volume 10 of the New York Code of Rules and Regulations. Each of the above items may be summarized as following:

51.1 Applicability. These regulations apply to most hearings conducted by the Department of Health.

51.2 Definitions.

1. "Commissioner" means Commissioner of the New York State Department of Health.
2. "CPLR" means Civil Practice Law and Rules.
3. "Department" means New York State Department of Health.
4. "Hearing Officer" means the person appointed to preside at the hearing or the person designated as administrative officer pursuant to Public Health Law Section 230.
5. "Party" means all persons designated as petitioner, respondent or intervenor.
6. "Report" means the Hearing Officer's summary of the proceeding and written recommendation or the findings, conclusions and determination of the hearing committee pursuant to Public Health Law Section 230.

51.3 The Department's Notice of Hearing and/or Statement of Charges should be served at least 15 days prior to the first hearing date, specify time, place and date(s) and should contain the basis for the proceeding.

51.4 Adjournment. Only the Hearing Officer may grant an adjournment and only after he/she has consulted with both parties. In hearings pursuant to Public Health Law Section 230, an adjournment on the initial day may be granted by the hearing committee.

51.5 Answer to Responsive Pleading. A party may serve a response to the allegations of the Department.

51.6 Amendment to Pleadings. A party may usually amend papers if no substantial prejudice results by leave of the Hearing Officer.

51.7 Service of Papers. Except for the Notice of Hearing and/or Statement of Charges, all papers may be served by ordinary mail.

51.8 Disclosure. Generally, there is no disclosure of any kind and the Hearing Officer cannot require it, unless all parties agree. If agreed to, the Hearing Officer will ensure all parties proceed in accordance with their agreement. However, in a hearing in which revocation of a license or permit is sought or possible, a party may demand in writing that another party disclose the names of witnesses, documents or other evidence such other party intends to offer at the hearing. A demand for such disclosure must be served at least 10 days prior to the first scheduled hearing date. Disclosure or a statement that the party has nothing to disclose must be made at least 7 days before the first scheduled hearing date. A party that determines to present witnesses or evidence not previously disclosed must supplement its disclosure as soon as practicable. The Hearing Officer may, upon good cause shown, modify the times for demands for and response to disclosure or allow a party not to disclose or limit, condition or regulate the use of information disclosed and may preclude the introduction of evidence not disclosed pursuant to a demand.

51.9 Hearing Officer. He/she presides over the hearing and has the authority to ensure it is conducted in an orderly fashion. He/she may also order the parties to meet before the hearing to discuss the procedure. He/she does not have the authority to remove testimony from the transcript and/or dismiss charges unless authorized by delegation.

51.10 Stipulation and Consent and Surrender Orders. At any time prior to a final order, parties may resolve all or any issues by stipulation. An order issued pursuant to a stipulation has the same force and effect as one issued after hearing.

51.11 The Hearing. A party may have an attorney represent him or her. Failure to appear may result in an adverse ruling. A hearing may be combined with or separated from another hearing depending on whether such action will result in delay, cost or prejudice. While the rules of evidence as applied in a courtroom are not observed, witnesses must be sworn or give an affirmation

and each party has the right to present its case and to cross-examine. The Department has broad discretion to place documents into evidence. A record of the proceeding must be made. In enforcement cases, the Department has the burden of proof and of going forward. In matters relating to neglect or abuse of patients under Public Health Law Section 2803-d, the Hearing Officer may not compel disclosure of the identity of the person making the report or who provided information in the investigation of the report.

Complaints relating to Public Health Law Section 230 may not be introduced into evidence by either party and their production cannot be required by the Hearing Officer.

Claims that a hearing has been unreasonably delayed is treated as an affirmative defense (Section 51.5) or as part of claimant's case. The burden of going forward and of proof are on the claimant.

A verbatim record of the proceeding shall be made by any means determined by the Department. The record shall include notice of hearing and any statement of charges, responsive pleadings, motions, rulings, transcript or recording, exhibits, stipulations, briefs, any objections filed, any decision, determination, opinion, order or report rendered.

51.12 Hearing Officer's Report. In matters governed by Public Health Law Sections 230, 230-a and 230-b, the final report should be submitted not more than 52 days after completion of the hearing if service is effectuated by mail and not more than 58 days of service if effectuated personally. In all other matters, the Hearing Officer, within 60 days of the completion of the hearing, should submit a report.

51.13 Filing of Exceptions. Within 30 days of the date of a copy of the report of the Hearing Officer and proposed order or, within 15 days of a date a report of the hearing committee and proposed recommendation for hearings conducted pursuant to Public Health Law Section 230 is sent to the parties, any party may submit exceptions to said report and proposed order to the Supervising Administrative Law Judge. On notice of all parties, a party may request, before the expiration of the exception period, the Supervising Law Judge to extend the exception period. All parties have the opportunity to state their position on the extension on the record. Extensions may be granted on good cause shown; however, they are not granted to allow a party to respond to exceptions already filed.

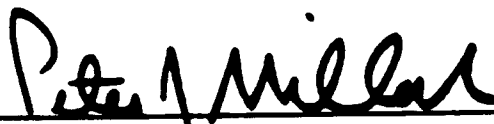
51.14 Final Determination Order. The hearing process ends when an order is issued by the Commissioner or his designee or the appropriate board of council. The order should state a basis for the decision. Each party receives a copy of the order.

51.15 Waiver of Rules. These rules and regulations may be dispensed with by agreement and/or consent.

51.16 Establishment, Construction, Rate Hearings. Hearings involving any of these issues have time limits concerning the issuance of notices of hearing of 365 days of receipt by the Department of a request for hearing.

51.17 Disqualification for Bias. Bias shall disqualify a Hearing Officer and/or a committee member in hearings governed by Public Health Law Section 230. The party seeking disqualification must submit to the hearing officer an affidavit pursuant to SAPA Section 303. Mere allegations are insufficient. The Hearing Officer rules on the request.

DATED: Albany, New York
February 7, 1992



PETER J. MOLLOCK
General Counsel