



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.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Anne F. Saile, Director
Office of Professional Medical Conduct

PUBLIC

William P. Dillon, M.D.
Chair

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

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

September 9, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Paul Keshishian, D.O.
625 Cobh Road
River Vale, NJ 07675

RE: License No.: 148618

Dear Dr. Keshishian:

Enclosed please find Order #BPMC 99-229 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **October 1, 1999.**

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 to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

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

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc. Alma Saravia, Esq.
Flaster, Greenberg
18 Chapel Avenue West
Cherry Hill, NJ 08002-4609

Marcia Kaplan, Esq.

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

IN THE MATTER
OF
PAUL KESHISHIAN, D.O.

CONSENT
AGREEMENT
AND
ORDER

BPMC #99-229

STATE OF NEW YORK)
COUNTY OF) ss.:

PAUL KESHISHIAN, D.O., (Respondent) being duly sworn, deposes and says:

That on or about October 29, 1981, I was licensed to practice as a physician in the State of New York, having been issued License No. 148618 by the New York State Education Department.

My current residence address is ^{625 Cobb Road River Vale, N.J. 07675} ~~725 Cobb Road, Riverdale, N.J. 07675~~ and my current office address is N.Y. Physicians Multicare, 25 Rose Hill Ave., New Rochelle, N.Y. and I will advise the Director of the Office of Professional Medical Conduct of any change of my addresses.

I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct.

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

I do not contest the First Specification in full satisfaction of the charges against me. I hereby agree to the following penalty:

Effective October 1, 1999, my license to practice medicine in New York shall be suspended for a period of 3 years, with the first 9 months an actual suspension and the remainder stayed, and a 3 year period of probation commencing October 1, 1999 under the terms in EXHIBIT B.

mek
per
P. H. A. S.

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 current 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 the Office of Professional Medical Conduct (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)(McKinney Supp 1999).

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 State Board for Professional Medical Conduct (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

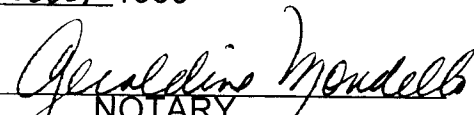
merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

DATED 8/24/99



PAUL KESHISHIAN, D.O.
RESPONDENT

Sworn to before me
on this 24th day of
AUGUST 1999



NOTARY

GERALDINE MONDELLO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 10, 2002

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

DATE: August 20, 1999



ALMA SARAVIA, ESQ.
Attorney for Respondent

DATE: August 25, 1999



MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: Aug 30 1999



ANNE F. SAILE
Director
Office of Professional
Medical Conduct

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

IN THE MATTER
OF
PAUL KESHISHIAN, D.O.

CONSENT
ORDER

Upon the proposed agreement of PAUL KESHISHIAN, D.O. (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: 9/4/99



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

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

IN THE MATTER
OF
PAUL KESHISHIAN, D.O.

STATEMENT
OF
CHARGES

PAUL KESHISHIAN, D.O., the Respondent, was authorized to practice medicine in New York State on or about October 29, 1981, by the issuance of license number 148618 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about March 3, 1999, effective nunc pro tunc January 15, 1999, the New Jersey State Board of Medical Examiners (New Jersey Board) filed a Final Order, (a copy of which is attached and incorporated), suspending Respondent's license to practice medicine and surgery in New Jersey for three years, with the first nine months an active suspension commencing January 15, 1999, and the remainder stayed as a period of probation, and further requiring Respondent to do the following, as more fully set forth in the Final Order:
1. within 30 days, submit proof that he has dissolved any business corporation he used to offer professional medical services requiring licensure;
 2. successfully complete a professional ethics course;
 3. within 10 days, reimburse the medical fees for six named patients, totalling \$1336;
 4. within 10 days, pay \$13,954 in penalties and costs to the New Jersey Board;

5. meet with New Jersey Board representatives and comply with directives for inspection of premises and patient records, as ordered;
6. neither offer nor permit radiological services to be performed at any medical facility under his control, and refer patients requiring such services to appropriate physicians;
7. assure that his practice is monitored by a Board-approved physician, pay all associated costs, and assure that the monitor makes monthly reports to the Board, subject to modification by further Board Order.

The New Jersey Board's Final Order was based upon Respondent's no contest plea to allegations in the New Jersey disciplinary Complaint, (a copy of which is attached and incorporated), including that for an extended period of time, Respondent authorized, directed or condoned the performance of diagnostic radiology services by persons not physicians or licensed radiologic technologists, and that those services were grossly negligent and incompetent; his failure to assure that medical office protocols and procedures were established and implemented, as required; Respondent's violations of quality and responsibility of practice rules, that Respondent proffered professional medical services requiring state licensure through an unlicensed corporation, and that physicians were employed by that corporation to provide medical services, in violation of law. The conduct resulting in the suspension or other disciplinary action involving Respondent's New Jersey license would, if committed in New York state, constitute professional misconduct under the laws of New York state [namely N.Y. Educ. Law §6530 (2), (3), (4), (5), (6), (11), (16), (20), (25) and/or (33)].

SPECIFICATION OF CHARGES


FIRST SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1999) by having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state [namely N.Y. Educ. Law §6530(§6530 (2), (3), (4), (5), (6), (11), (16), (20), (25) and/or (33))] as alleged in the facts of the following:

1. Paragraph A.

DATED: July 23, 1999
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

FILED

PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Complainant
By: Joan D. Gelber
Deputy Attorney General
Division of Law - 5th floor
124 Halsey Street
P.O.B. 45029
Newark, New Jersey 07101
Tel. 973-648-2478

March 3, 1999
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS
EFFECTIVE
NUNC PRO TUNC January 15, 1999
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEP'T OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS
OAL BDSME 09551-98N

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF LICENSE OF :
PAUL KESHISHIAN, D.O. : ADMINISTRATIVE ACTION
LICENSED TO PRACTICE MEDICINE AND : FINAL ORDER
SURGERY IN THE STATE OF NEW JERSEY:

This matter was presented to the State Board of Medical Examiners by the Attorney General of New Jersey, by Complaint filed September 1, 1998.

Respondent Paul Keshishian, D.O., holding license number MB039051, is represented by Alma L. Saravia, Esq. Respondent maintains professional offices under the current name Redi-Med Immediate Medical Care at 186 Rochelle Avenue, Rochelle Park, New Jersey 07662 and has, for many years, offered professional medical services under various other entity names including, but not limited to, Redi-Med, Inc. in Maywood, and as Paul Keshishian, D.O., P.A.

The Complaint alleged, in part, that for an extended period of time and to date, respondent has authorized, directed or condoned the performance of diagnostic radiology services by persons who are not physicians or licensed radiologic technologists, and that the

CERTIFIED TRUE COPY

diagnostic radiologic service was grossly negligent and incompetent. Other offenses were alleged, including but not limited to failure to assure that medical office protocols and procedures were established and implemented as required. Quality and responsibility of practice rule violations were also alleged, including N.J.A.C. 13:35-6.5, 13:35-6.5, 13:35-6.16, and 13:45C-1 et seq. Finally, the Complaint alleged that respondent had proffered professional medical services, which require State licensure, through Red-Med, Inc., a general business corporation unlicensed to offer medical services, and that physicians were employed by the corporation to provide professional medical services, all in violation of N.J.A.C. 13:35-2.5(d), 13:35-6.16(b) and (f), The conduct was variously alleged to violate N.J.S.A. 45:9-6, 45:9-16; 45:1-21(b), (c), (e) and (h); 56:8-1 et seq.

An Interim Order, to which respondent consented without admissions of liability, was filed September 10, 1998 limiting his professional practice. The Board takes note of the fact that, voluntarily, respondent notified the State Bureau of Radiological Health of the Department of Environmental Protection on November 3, 1998 that he had disposed of all x-ray equipment.

In the interests of amicable settlement of this matter, respondent, having conferred with his counsel, has determined to plead no contest to the allegations and to enter into the following resolution of the filed Complaint.

For good cause shown,

IT IS, ON THIS 2nd DAY OF MARCH 1999

ORDERED:

1. Respondent's license to practice medicine and surgery in this State shall be suspended for three years, the first nine months of which shall be an active suspension commencing on January 15, 1999, with the remainder stayed as a period of probation.

2. Within 30 days of the entry of this Order, respondent shall submit to the Board proof of having dissolved Redi-Med, Inc. and any other general business corporation which he has utilized to offer professional medical services requiring licensure.

3. Prior to resumption of practice, respondent shall take and successfully complete a course in professional ethics acceptable to the Board, including but not limited to the ProBE course sponsored by The Ethics Group, LLC or a professional ethics course sponsored by the University of Pennsylvania, and shall authorize the course sponsor to submit an evaluation report to the Board.

4. Respondent shall, within 10 days of the entry of this Order, reimburse the six patients' referenced in the Complaint (or the individual/entity responsible for their medical fees paid to respondent) by sending to the Attorney General respondent's individual checks payable to each such person, totalling \$1,336.00. Payment shall be made in full.

5. Respondent shall, within 10 days of the entry of this Order, pay to the State Board of Medical Examiners, penalty of

J.G., E.F., N.D.C., I.R., H.B., and J.MCM.

\$10,000 and costs of \$3,954, totalling \$13,954.00. Failure to make all payments required by all provisions of this Order shall result in the filing of a Certificate of Debt pursuant to N.J.S.A. 45:1-24 and other appropriate follow-up. All payments shall be made by certified check or money order payable to the State of New Jersey.

6. Prior to resumption of practice, respondent shall appear, on notice, before a Committee of the Board to discuss his status and his readiness to comply with applicable law, rules, and accepted standards of practice in the profession. He shall thereafter meet as may be required, on notice, with the Medical Director of the Board of Medical Examiners during the probation period, and shall cooperate at any time with a duly served Demand for Inspection of premises and of patient records by representatives of the Enforcement Bureau pursuant to N.J.S.A. 45:1-18 and N.J.A.C. 13:45C-1 et seq.

7. Commencing immediately, and upon resumption of practice during the probation period, respondent shall neither offer nor permit the performance of any radiological services at any medical office or facility under his control. Patients needing radiological services shall be referred to a licensed and appropriately trained physician for consultation. Any radiological studies brought to respondent by patients shall be referred to a licensed physician specializing in radiology for interpretation.

8. During the probation period, respondent shall assure that his professional practice is monitored by a New Jersey-licensed

physician acceptable to the Board. Said physician shall be neither a member of respondent's immediate family as defined by N.J.S.A. 45:9-22.4 nor a present or former professional associate, nor a creditor or lessor of space or equipment. All costs associated with the monitoring program as outlined hereinafter shall be paid directly by the respondent and shall not be passed on to patients.

9. A proposed monitor shall submit to the Board a curriculum vitae and an outline of the proposed plan of supervision. The monitor(s) shall be authorized to review records prepared by respondent or others in his employ or practicing in any form of affiliation with him, and to review medical studies and reports thereof, and to personally examine patients as the monitor may deem necessary. Monitoring shall include confirmation of an established office protocol and procedure consistent with requirements of Board rule in the form currently codified at N.J.A.C. 13:35-6.16(b); evaluation of physician delegation of authority to perform professional health care services to duly licensed and/or credentialed persons as applicable; supervision of any lawfully delegated tasks; adequacy of examinations for the proffered patient subjective complaints and objective findings; adequacy of diagnostic recommendations including but not limited to referrals for diagnostic testing including radiological studies and follow-up; treatment recommendations and documentation; accuracy in billing.

The monitor(s) shall submit monthly reports to the Board, unless and until such frequency is modified by Board Order. The

reports shall summarize the nature of work reviewed and include note of the numbers of cases/patients reviewed; types of cases and treatments reviewed; comments pertinent to the quality of care provided; and an evaluation as to whether the work meets accepted standards of practice in the applicable medical practice or specialty. The monitor shall report within 48 business-day hours any failure to comply with the terms of Order or of work which repeatedly fails to meet accepted standards of practice. The monitor shall be authorized to make immediate report to the Board of any individual matter which is believed to present an imminent peril to the patient or to the public. The monitor(s) shall submit a signed assent to the undertaking of the responsibilities set forth in this Order.

If, at the end of the first year, the monitor reports received during that period disclose, in the sole discretion of the Board, no unremediated problems and no concerns of significance, then the monitor reports shall be due quarterly following Board notice of the modification which shall be sent to Dr. Keshishian/counsel. The quarterly reports shall continue until the conclusion of the probation period.

10. Respondent shall provide appropriate releases to any and all persons who are participating in the monitoring program as outlined herein, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely and independent manner. Respondent further agrees that none of the persons who were referenced in the Complaint as

fact or as expert witnesses, nor family, nor any of the persons to be designated as monitors herein, have or shall incur any liability to respondent as a result of their good faith performance of their testimonial or consultant service.

11. Respondent shall not refer patients to the designated monitor, nor shall the monitor refer patients to respondent.

12. Respondent shall comply with the directives set forth in the attached Disciplinary Guideline which is incorporated herein by reference.

13. This Order is intended to resolve all issues arising in connection with the allegations made by the Attorney General in the Complaint filed before the State Board of Medical Examiners. The entry of this Order shall not limit the authority of the Attorney General or of any other person or agency to initiate any other action permitted by law, whether administrative, civil or criminal, in any court of competent jurisdiction or other forum.

THIS ORDER IS EFFECTIVE JANUARY 15, 1999, NUNC PRO TUNC.

STATE BOARD OF MEDICAL EXAMINERS

By: Bernard Robins
Bernard Robins, M.D., F.A.C.P., F.A.C.E.
President

I have read the within Order and understand its terms. I consent to the filing of the Order by the Board of Medical Examiners.

Paul Keshishian
Paul Keshishian, D.O.

Witness:

By: Alma L. Saravia
Alma L. Saravia, Esq.
Counsel to Dr. Keshishian

PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Complainant
By: Joan D. Gelber
Deputy Attorney General
Division of Law - 5th floor
124 Halsey Street
P.O.B. 45029
Newark, New Jersey 07101
Tel. 973-648-2972

FILED

September 1, 1998
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEP'T OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF LICENSE OF :
PAUL KESHISHIAN, D.O. :
LICENSED TO PRACTICE MEDICINE AND :
SURGERY IN THE STATE OF NEW JERSEY: :

ADMINISTRATIVE ACTION
VERIFIED COMPLAINT

PETER VERNIERO, ATTORNEY GENERAL OF NEW JERSEY, by Joan D. Gelber, Deputy Attorney General, with offices at 124 Halsey Street, Newark, New Jersey 07101, by way of Verified Complaint says:

GENERAL ALLEGATIONS

1. Complainant Attorney General of New Jersey is charged with enforcing the laws of the State of New Jersey pursuant to N.J.S.A. 52:17A-4(h) and 45:1-14 et seq.
2. The New Jersey State Board of Medical Examiners is charged with the duty and responsibility of regulating the practice of medicine in the State of New Jersey pursuant to N.J.S.A. 45:9-1 et seq. and 45:1-14 et seq.
3. Respondent is the holder of license number MB039051 and has been licensed to practice medicine during all times pertinent herein. He currently maintains professional offices under the name

CERTIFIED TRUE COPY

Redi-Med Immediate Medical Care at 186 Rochelle Avenue, Rochelle Park, New Jersey 07662 and has offered professional medical services under various other entity names, including, but not limited to, Redi-Med, Inc., and Paul Keshishian, D.O., P.A.

5. During a period including, but not limited to, approximately 1987 and to date, respondent has undertaken to provide medical care, including diagnostic radiology services, to numerous patients either personally or through employees, at locations including but not limited to Redi-Med, Inc. at 949 Spring Valley Road, Maywood, and at Redi-Med Immediate Medical Care at 186 Rochelle Avenue, Rochelle Park, New Jersey.

6. By enactment of the Radiologic Technologist Act, N.J.S.A. 26:2D-24 et seq., the Legislature

declares that the citizens of New Jersey are entitled to the maximum protection practicable from the harmful effects of excessive and improper exposure to ionizing radiation; that the protection can be increased by requiring appropriate training and experience of persons operating medical equipment emitting ionizing radiation and requiring them to operate the equipment under the specific direction of a licensed practitioner; and that it is therefore necessary to establish standards of education, training and experience for these operators and to provide for the appropriate examination and certification thereof.

N.J.S.A. 26:2D-27 declares that no person other than a licensed practitioner or the holder of a license issued by the Radiologic Technology Board of Examiners, as provided in the Act, shall use x-rays on a human being. N.J.S.A. 26:2D-35 declares that "No person shall knowingly or negligently employ as a radiologic

technologist any person who requires and does not possess a valid license to engage in the activities of a radiologic technologist."

7. Rule N.J.A.C. 7:28-19.6 of the Radiologic Technology Board of Examiners states that

the practice of diagnostic radiologic technology shall include: patient measurement, proper positioning for varied procedures to demonstrate the appropriate anatomical part on a radiograph as requested by a physician, selecting the correct technique factors on control panel, selecting proper distance and exercising principles of radiation protection and making x-ray exposures.

8. Respondent, directly or indirectly, held out to the public the implied representation that patients seeking medical care at his offices would receive professional services consistent with pertinent licensure laws intended to protect the public health, safety and welfare. Respondent has failed to meet his responsibilities.

COUNT 1

1. Complainant repeats the General Allegations.
2. Notwithstanding respondent's obligation to provide medical services solely by persons duly licensed to render same, and/or to delegate certain medical services solely to persons licensed and authorized to render the delegated services, respondent regularly directed, authorized or condoned activities by the employed medical assistants, who held no professional license as physicians or as radiologic technologists, to position patients for x-ray studies, to determine the settings of the x-ray equipment, and to administer

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the x-ray exposure to the patients. See Exhibit A, Affidavit of patient J.G., and Exhibit B, Certification of Albert V. Orlandi, Supervisor of the Technologist Certification Section of the Bureau of Radiological Health, Radiation Protection Programs, Division of Environmental Safety, Health and Analytical Programs, within the Department of Environmental Protection ("DEP") with selected attachments; Exhibit C, report of expert Pamela A. Woodward, M.S., L.R.T.(R); Exhibit E, excerpts of June 24, 1998 sworn statement of Redi-Med, Inc. employee, Maged M. Rizk, M.D.; Exhibit F, August 25, 1998 affidavit of Anna Pavlick, D.O., and Exhibit G, excerpts of June 24, 1998 sworn statement of respondent Keshishian.

3. Respondent directed, authorized or condoned actions of the "medical assistants", by which they performed on said patients radiological activities restricted by law to licensed physicians or to licensed radiologic technologists. Said conduct, when unlicensed, is prohibited by N.J.S.A. 26:2D-27a.

4. The patients receiving radiation exposure during 1996 from unlicensed employees of respondent Keshishian in the course of receiving medical services at Redi-Med, Inc. included, but were not

limited to, the following persons: Mrs. H.B., Mrs. E.F., Mr. J.McM., Mr. I.R., child N.DC., and Mrs. J.G.

5. The conduct set forth above constitutes the employment of persons not licensed as radiologic technologists pursuant to N.J.S.A. 26:2D-35 to perform activities restricted to appropriately licensed persons, and constitutes the aiding and abetting of the unlicensed practice of medicine not within any exception to the law, all in violation of statutes including N.J.S.A. 45:9-16 and of N.J.A.C. 13:35-2.5(f) and N.J.S.A. 45:1-21(h). Said conduct further constitutes misrepresentation, deception, gross negligence/malpractice, and professional misconduct, in violation of N.J.S.A. 45:1-21(b), (c) and (e). Said conduct further constitutes failure to maintain the ongoing requirement of good moral character, in violation of N.J.S.A. 45:9-6. The implied representation of lawful services, which representation was false, violates the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as a material omission in the circumstances herein. Each instance of any of the abovesaid conduct constitutes a separate transaction and a separate offense.

6. Respondent's owned entity, Redi-Med, Inc., has been cited by the Department of Environmental Protection, Air & Environmental

*Patient E.F. was treated by respondent Keshishian on 2/25/96 and by employee Maged M. Rizk, M.D. on 8/29/96. Patient N.DC. was treated by Dr. Rizk on 8/29/96 and on 12/1/96 (after the DEP penalty assessment) by a Redi-Med physician employee whose current identity is unknown. Patients J.M. and I.R. were treated on 8/29/96 by Dr. Rizk. Patient J.G. was treated on 9/23/96. X-rays were administered to each patient on the listed dates. A separate Administrative Complaint has been filed against Dr. Rizk and is pending.

Quality Compliance & Enforcement (DEP), for violation of N.J.S.A. 26:2D-35 and 26:2D-10, for employment of three named persons to perform radiologic technology when they did not possess valid licenses to engage in such activities, and for failure to use x-ray equipment in such a manner as to prevent a human being from being exposed to unnecessary radiation. Penalty totalling \$4,300 was assessed and paid by respondent. See Exhibit B. Respondent also paid a penalty of \$900 assessed individually against the three named unlicensed persons employed by him, each of whom was charged with violation of N.J.S.A. 26:2D-27a.

7. Notwithstanding the notice of DEP violation and conviction, and assessment of penalty for the violation of Department of Environmental Law and rules, respondent continued to employ and use unlicensed persons to administer x-rays to patients.

8. Respondent's conviction of violation of the Radiation Protection Act and the Radiologic Technologic Act constitutes professional misconduct within the intendment of N.J.S.A. 45:1-21(e). Moreover, said continuing violation of law applicable to a licensed physician constitutes misrepresentation and deception to patients, gross and repeated malpractice and negligence, professional misconduct, and failure to comply with the continuing requirement of good moral character, in violation of N.J.S.A. 45:1-21(b), (c), and (e) and 45:9-6.

* The treatment of Mrs. J.G. was the sole basis of the DEP inquiry and the sole basis of the assessed penalty.

COUNT 2

1. Complainant repeats the General Allegations and the allegations of Count 1.

2. During 1996, patients receiving medical services at Redi-Med, Inc. included but were not limited to, Mrs. J.G., Mrs. H.B., Mrs. E.F., Mr. J.MCM., Mr. I.R., and child N.DC.

3. The radiologic studies of the patients referenced in Count 1 manifest, variously: gross positioning errors including failure to include the area of clinical interest, failure to use protective lead shielding appropriately, failure to collimate the radiation to limit unnecessary exposure, failure to select the appropriate size of cassette to minimize unnecessary exposure of other portions of the anatomy, failure to select appropriate dosage settings, and failure to assure removal of clothing and/or jewelry to assure an unobstructed view of the area of clinical interest.

For example, numerous films were grossly overexposed or underexposed. Several films, apparently intended for a specific view, fail to demonstrate that view. The skull x-ray series ordered for I.R. to rule out fracture wholly omitted a significant portion of the skull. A chest x-ray omitted a portion of the chest. One of the 14 films taken of Mrs. J.G. contained a double exposure including the wrist of a child, and another was partially obscured by a large metal zipper from unremoved slacks. Films of other patients include views of metal bracelets and rings overlying bony areas of a patient's body. See, variously, Exhibit B, the

certifications and included October 8, 1996 memorandum of Albert V. Orlandi; Exhibit C, August 28, 1998 certified report of Pamela Woodward, M.S., R.T.(R); and Exhibit D, August 25, 1998 certified report of Kevin K. Mooney, M.D.

4. The aforesaid conduct constitutes failure by respondent to assure that x-ray equipment is used in such a manner as to prevent persons from being exposed to unnecessary radiation.

5. Individually and cumulatively, respondent's conduct constitutes misrepresentation, deception, gross and repeated malpractice, negligence and incompetence, and professional misconduct, in violation of N.J.S.A. 45:1-21(b), (c), (e) and (h).

His deliberate or negligent conduct in allowing unnecessary radiation exposure to his patients, is prohibited by N.J.S.A. 26:2D-10 and other portions of the Radiologic Technologist Act and thereby separately constitutes professional misconduct, N.J.S.A. 45:1-21(e).

6. Notwithstanding the October 1996 assessment of financial penalty by the Department of Environmental Protection (DEP) for the conduct involving patient Mrs. J.G., respondent continued to direct, authorize or condone the activities of his employed medical assistants to position and to administer diagnostic radiologic examinations to patients thereafter and to date. Said conduct further constitutes professional misconduct and failure of the continuing requirement of good moral character; N.J.S.A. 45:1-21(e) and 45:9-6.

COUNT 3

1. Complainant repeats the General Allegations and the allegations of Counts 1 and 2.

2. Many of the films taken of Redi-Med patients by the respondent's unlicensed personnel were of nondiagnostic quality.

3. The patients were nevertheless charged for the nondiagnostic films.

4. Charging for nondiagnostic radiologic studies constitutes violation of N.J.A.C. 13:35-2.5(i) and of N.J.S.A. 45:1-21(h). Each separate instance constitutes a separate transaction and a separate offense.

COUNT 4

1. Complainant repeats the General Allegations and the allegations of Counts 1 through 3.

2. None of the x-ray films taken at Redi-Med, Inc. of the patients listed in Counts 1 and 2 were labelled with name of patient, date of film, or name of medical office where the film was taken.

3. Said conduct, in failing to identify radiological studies which were part of the patient record, constitutes failure to comply with accepted standards of professional practice in the preparation of medical diagnostic radiological studies in violation of N.J.S.A. 45:1-21(c) and/or (d), and failure to maintain a proper patient record in violation of N.J.A.C. 13:35-6.5 and N.J.S.A.

45:1-21(h). Each separate instance constitutes a separate transaction and a separate offense.

COUNT 5

1. Complainant repeats the General Allegations and the allegations of Counts 1 through 4.
2. Rule N.J.A.C. 13:35-6.16(b) of the State Board of Medical Examiners requires that a physician conducting a medical practice shall assure that medical policies and procedures be established. Said policies and procedures are to include, among other responsibilities, ascertainment of licensing credentials as required by law; establishment of medical policies; standards of recordkeeping; and periodic audit of patient records and of professional services to assure quality professional care on the premises.
3. N.J.A.C. 6.16(d) requires that the licensee carry out the designated medical policies and procedures either personally or through an employed licensed health care professional as director, to implement the aforesaid policies and procedures.
4. Respondent, in his role as owner and Medical Director of the office, failed to establish the policies and procedures required by the Board rules, and authorized, directed or condoned grossly and/or repeatedly negligent professional services being offered on the Redi-Med premises.

5. Alternatively, respondent failed to implement appropriate office policies and procedures, in violation of N.J.A.C. 13:35-6.16(b) and (d) and of N.J.S.A. 45:1-21(h).

COUNT 6

1. Complainant repeats the General Allegations and the allegations of Counts 1 through 5.

2. Board rule N.J.A.C. 13:35-6.5 requires that a physician maintain a patient's medical record for seven years from date of last entry.

3. Patient Mrs. J.G. was treated on September 23, 1996 at Redi-Med, Inc. by respondent's physician-employee and a medical assistant employee.

4. On or about February 25, 1997, subsequent to the commencement of investigation by the Department of Environmental Protection and of Board investigation, a document authorizing release of Mrs. J.G.'s medical record was served upon respondent.

5. Respondent has failed to produce the said patient record.

6. Said failure to maintain and produce the patient record of Mrs. J.G. constitutes violation of the cited Board rule and/or failure to cooperate in a lawful Board investigation, in violation of N.J.A.C. 13:45C-1 et seq., and of N.J.S.A. 45:1-21 (h).

COUNT 7

1. Complainant repeats the General Allegations and the allegations of Counts 1 through 6.

2. Respondent proffered professional medical services requiring State licensure through Redi-Med, Inc., a general business corporation unlicensed to offer medical services.

3. Respondent hired physicians to provide professional medical services to his unlicensed general business corporation.

4. The abovesaid conduct constitutes violation of N.J.A.C. 13:35-2.5(d), 13:35-6.16(b) and (f) and other pertinent law, in violation of N.J.S.A. 45:1-21(h).

WHEREFORE, Complainant demands the entry of an Order against respondent including the following:

1. Emergent relief, temporarily suspending the license of respondent pending plenary trial, and/or imposing restrictions on his practice;

2. Suspension or revocation of the license heretofore issued to respondent to practice medicine and surgery in the State of New Jersey;

3. Imposition of penalties for each separate unlawful act as set forth in Count 1 through 7 above;

4. Imposition of costs, including investigative costs, fees for expert and fact witness expenses, and costs of trial including transcripts.

5. Reimbursement to patients/examinees and/or third party payors of all monies received for acts found to be unlawful in the circumstances alleged herein;

6. Direction to immediately dissolve the corporate status of Redi-Med, Inc. and any other unlicensed general business corporation under respondent's control or with which he is affiliated, which offers professional services requiring licensure;

7. Direction to cease and desist from the unlawful conduct proved; and

8. Such other and further relief as the Board of Medical Examiners shall deem just and appropriate.

PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY

By: 

Joan D. Geiber
Deputy Attorney General

Date: August 31, 1998

EXHIBIT "B"

Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health 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. During all periods subject to this Order, Respondent shall neither offer nor permit the performance of any radiological services at any medical office or facility under his control. Patients needing radiological services shall be referred to a licensed and appropriately trained physician for consultation. Any radiological studies brought to Respondent by patients shall be referred to a licensed physician specializing in radiology for interpretation.

8. Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
9. Respondent shall comply fully with the Administrative Action Final Order filed March 3, 1999, effective *nunc pro tunc* January 15, 1999, of the New Jersey State Board of Medical Examiners and any extension or modification thereof.
 - a. Respondent shall provide a written authorization for the New Jersey State Board of Medical Examiners to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the New Jersey Order.
 - b. Respondent shall submit quarterly a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the New Jersey Order during the declaration period specified.
10. 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.