



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

August 30, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Barry Kaufman, Esq.
& Terrence Sheehan, Esq.
NYS Department of Health
5 Penn Plaza – 6th Floor
New York, New York 10001

Nathan L. Dembin, Esq.
Nathan L. Dembin & Associates, P.C.
225 Broadway – Suite 1400
New York, New York 10007

Dr. Joseph S. Kleinplatz
253 West 16th Street –3D
New York, New York 10011

RE: In the Matter of Joseph Samuel Kleinplatz

Dear Parties:

Enclosed please find the Determination and Order (No. 02-278) 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 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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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 penalties other than suspension or revocation 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
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

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, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

**IN THE MATTER OF
OF
JOSEPH SAMUEL KLEINPLATZ**

DETERMINATION

AND

ORDER

BPMC #02-278

ARTHUR ZITRIN, M.D., Chairperson, **MR. ALAN KOPMAN**, and **LEON NADROWSKI, 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. **ELLEN B. SIMON, ESQ.**, Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this Determination.

STATEMENT OF CHARGES

The Statement of Charges essentially charges the Respondent with professional misconduct by reason of having fraudulently obtained his medical license; having practiced fraudulently; having willfully made or filed a false report; having engaged in conduct in the practice of medicine that evidences moral unfitness for such practice; having failed to disclose and provide information regarding a professional medical misconduct proceeding pending in the state of New York, as required by law; and by having failed to make available within thirty days of their being requested records concerning an inquiry or complaint about the Respondent's professional misconduct. The charges are more specifically set forth in the Statement of Charges, a copy of which is attached to and made a part of this Determination and Order.

SUMMARY OF THE PROCEEDINGS

Statement of Charges Dated:

July 13, 1999

Prehearing Conference:

September 28, 1999

Hearing Dates:

October 7, 1999
June 29, 2000
August 1, 2000
August 7, 2000
August 8, 2000
September 18, 2000
November 6, 2000
November 20, 2000
November 27, 2000
January 9, 2001
January 22, 2001
March 7, 2001
March 13, 2001
June 7, 2001
July 23, 2001
August 6, 2001
September 10, 2001
October 15, 2001

Deliberation Dates:

November 26, 2001
December 17, 2001
December 26, 2001
February 17, 2002
March 25, 2002
May 24, 2002
July 18, 2002

Place of Hearing:

NYS Department of Health
5 Penn Plaza
New York, New York

Petitioner Appeared By:

Donald P. Berens, Jr., Esq.
General Counsel
NYS Department of Health
By: Barry Kaufman, Esq.
Associate Counsel
Terrence Sheehan, Esq.
Associate Counsel

Respondent Appeared By:

Nathan L. Dembin & Associates, P.C.
225 Broadway – Suite 1400
New York, New York 10007
By: Nathan L. Dembin, Esq.

WITNESSES

For the Department:

Ms. Annette Palk
Mr. William Kelly
Belle K. Goldstein
Igor Rosien, M.D.
Ms. Susan Fuller

For the Respondent:

Mr. Rafael Delfin Leon
Fabio Troncoso, Esq.
Ms. Phyllis Agatstein
Pablo Federico Castro, M.D.

Affirmation of Members of the Hearing Committee

Leon Nadrowski, M.D., a duly appointed member of the State Board for Professional Medical Conduct and of its Hearing Committee designated to hear the matter of Joseph Samuel Kleinplatz, hereby affirms that he was absent from the hearing session conducted on September 18, 2000, from a brief part of the session conducted on November 6, 2000, and from the sessions conducted on January 22, July 23, and August 6, 2001. Dr. Nadrowski affirms that he has read and considered the transcripts of the proceedings of, and the evidence received at, such whole or partial hearing days before deliberations of the Hearing Committee beginning on November 26, 2001.

Mr. Alan Kopman, a duly appointed member of the State Board for Professional Medical Conduct and of its Hearing Committee designated to hear the matter of Joseph Samuel Kleinplatz, hereby affirms that he was absent from the hearing sessions conducted on August 8 and November 27, 2000. Mr. Kopman affirms that he has read and considered the transcripts of the proceedings of, and the evidence received at, such hearing days before deliberations of the Hearing Committee beginning on November 26, 2001.

FINDINGS OF FACT

Numbers in parentheses refer to transcript pages or exhibits and denote evidence that the Hearing Committee found persuasive in determining a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited.

GENERAL FINDING

1. **JOSEPH SAMUEL KLEINPLATZ**, the Respondent, was authorized to practice medicine in New York on October 28, 1986, by the issuance of license number 168381 by the New York State Education Department (uncontested; Ex 7 K&G).

FINDINGS AS TO CHARGES A, A.1, A.2, AND A.3

2. On or about July 4, 1986, Respondent applied to the New York State Education Department for a medical license and for registration so as to practice medicine as a physician in the state of New York (Ex 7 K&G).
3. On his application and during the application process, Respondent represented that (a) he had completed all of the requirements and was a graduate of the medical school at the Universidad Autónoma de Ciudad Juarez, Mexico (Autonomous University of the City of Juarez, Mexico, hereinafter referred to as "UACJ"); (b) he had earned a degree of Title of Physician-Surgeon, known as a "Título," from the UACJ; and (c) he was licensed as a physician in Mexico in 1980 (Ex 7 K&G).
4. According to Susan Fuller of the New York State Education Department, Respondent presented or had submitted on his behalf all the documents required to qualify for and to receive a license to practice medicine in New York (T 1622, line 14; 1710-1712).
5. At the time the Education Department evaluated Respondent's application for a medical license, all the documents in his file appeared to be in order and raised no question concerning their regularity or authenticity (T 1294, lines 12-22; 1295, lines 4-5).
6. No one in the Education Department ever directly communicated with the UACJ to certify that Respondent was a graduate of its medical school and was properly issued a Título (T 1323-1324).
7. No documentary evidence or testimony was offered at the hearing in support of a conspiracy between Respondent and his sister, Belle Kleinplatz Goldstein, to furnish fraudulent records to the Education Department with his application for a medical license.

FINDINGS AS TO CHARGES B AND B.1

8. Respondent filed a New York State physician re-registration application dated on or about October 28, 1997, with the Division of Professional Licensing Services of the New York State Education Department (Ex 10 K).
9. On that application, in response to the question "Has any other state or country

instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence, or revoked, suspended or accepted surrender of a professional license held by you?" Respondent answered, "No" (Ex 10 K).

10. On that application, in response to the question "Has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges, or have you voluntarily or involuntarily resigned or withdrawn from such association to avoid the imposition of such action due to professional misconduct, unprofessional conduct, incompetency, or negligence?" Respondent answered, "No" (Ex 10 K).

11. In April or early May 1997, before Respondent's New York re-registration application in October and while Respondent was employed as a physician in a state medical facility, the Illinois Department of Professional Regulation brought misconduct charges against Respondent alleging that the UACJ credentials that he had submitted in applying for an Illinois medical license were fraudulent (Ex 16 K). The Committee notes that it has not been advised of any resolution of those charges.

12. On May 7, 1997, the state of Maine, where Respondent had been licensed as a physician and was working for the state's Department of Mental Health, Mental Retardation and Substance Abuse Services, terminated Respondent's employment (Ex 6 K).

13. In June 1997, the state of Illinois terminated Respondent's employment (Ex 31 K, p. 271, line 11).

FINDINGS AS TO CHARGES C, C.1, AND C.2

14. On or about April 19, 1979, Respondent submitted an application to the Educational Commission for Foreign Medical Graduates (ECFMG) to take the ECFMG examination (Ex 21 K, pp. 108-109).

15. On that ECFMG application, Respondent represented that he was conferred, or expected to receive, a Degree of Medical Doctor (M.D.) in June 1979 and that he received or expected to receive an unrestricted license to practice medicine in June 1979 (Ex 21 K).

16. On May 26, 1997, David Ramirez Perea, of the UACJ, wrote to the ECFMG that the UACJ denies that Respondent is a graduate of the University and denies certification of a valid May 10, 1980, academic degree in Respondent's name (Ex 21 K, pp. 87-89; T 658).

17. As a result of its receipt of the Perea letter, the ECFMG has pending against Respondent a formal proceeding concerning the legitimacy of the diploma that he presented to the commission in 1979 (T 653-659).

FINDINGS AS TO CHARGES D, D.1, AND D.2

18. Respondent applied to the states of Connecticut and Maine in or about October 1984 and March 1997, respectively, for licensing as a physician to practice medicine in those states (Exs 3 K and 17 K).

19. On those applications and during the application processes, Respondent represented that he had completed his training and was a graduate of the medical school of the UACJ and that he had earned a degree of Title of Physician-Surgeon from the UACJ (Exs 3 K and 17 K).

FINDINGS AS TO CHARGES E, E.1, AND E2

20. On or about September 8, 1998, Respondent applied to St. Barnabus Hospital/Correctional Health Services for appointment to its medical staff as a psychiatrist (Ex 5 K).

21. On that application, Respondent (a) denied that he was the subject of an investigation by the Department of Health (“the Department”) of the state of New York; (b) denied that he had been subject to revocation, suspension, reduction, limitation, probation, non-renewal or voluntary relinquishment or diminution of membership on any hospital medical staff and/or institutional affiliation or status; (c) did not disclose that he was licensed as a medical doctor, or had been so licensed within the past ten years, in the state of Illinois; (d) represented that he had graduated from the UACJ with the degree of medical doctor; and (e) represented that he had been employed as a physician at 14th Street Medical from June 1997 through the date of the application, September 8, 1998 (Ex 5 K).

22. Respondent was interviewed by Annette Palk, of the Department’s Office of Professional Medical Conduct (“OPMC”), on April 14, 1998; at the time of his September application to St. Barnabus, no formal investigation by OPMC had begun (T 156-157).

23. When Ms. Palk interviewed Respondent, he denied that he worked at 14th Street Medical and said that he had no medical connection with that office (T 177-178).

FINDINGS AS TO CHARGE F

24. In or about March 1980, Respondent applied to St. Vincent’s Hospital and Medical Center for admission to its PGY1 (internship) program (Ex 9 K).

25. On that application, Respondent represented that he was a graduate of the medical school of the UACJ and that he had earned the degree of medical doctor from the UACJ (Ex 9 K).

FINDING AS TO CHARGE G

26. As Respondent noted on his St. Barnabus application that he worked as a physician at 14th Street Medical (Ex. 5 K, p. 43) but told Annette Palk that he did not work there and had no medical connection with that office (T 177-178), there is conflicting evidence as to charge G.

FINDING AS TO CHARGE H

27. At her second interview with Respondent, on November 19, 1998, at which his attorney was also present, Annette Palk gave Respondent a letter that asked him, *inter alia*, to sign a release authorizing the UACJ to provide to OPMC all documents and information in Respondent's school records maintained by the University. Respondent never read that letter or executed such a release (T 193-195; Ex 19 K).

CONCLUSIONS

Hearing Committee member A recognizes both the difficulty that Respondent faced in defending allegations relating to events that are more than twenty years old and the legal limitations on the Department's ability to subpoena witnesses and documents from Mexico. Members B and C find that, as to Respondent, no such difficulty exists, as he could simply have signed a release authorizing the UACJ to produce his records.

The Committee concludes as follows:

Conclusions as to Respondent's Medical School Credentials

Respondent did not appear to testify at the hearing despite his apparent availability, as evidenced by the testimony of Dr. Pablo Federico Castro that he had met with Respondent in a New York City restaurant the evening before Dr. Castro's own appearance as a witness (T 2536). Committee members B and C therefore infer that if he had appeared and testified truthfully, Respondent's testimony would have tended to prove the charges against him. Committee member A believes that Respondent's testimony would not itself be determinative because it is the Department that must prove the charges by a preponderance of the evidence presented and not the Respondent who must refute them. Member A finds that the Department did not meet its burden of proof as to the inauthenticity of Respondent's medical school credentials, because no UACJ official or other competent witness testified that Respondent failed to meet the applicable academic and social service requirements when he attended the school, and no reliable records showing that Respondent failed to complete the required courses are in evidence. Member A emphasizes that no one at the Education Department questioned the validity of Respondent's UACJ credentials when he applied to New York state sixteen years ago for a license to practice medicine. Without affirmative, reliable proof of the invalidity of

Respondent's credentials, this member of the Committee finds that the documents that Respondent submitted in 1986 in support of his license application were legitimate.

Committee member B is persuaded that Respondent's failure to sign a release authorizing the Department to obtain copies of his medical school records from the UACJ, or to produce such records, is dispositive because it violated Section 6530 (28) of the New York State Education Law, because it suggests that Respondent knows that his credentials are not valid, and because it kept the Department from producing direct, credible evidence in support of the charges (Ex 19 K; T 185-238). This member finds that such violation of the Education Law alone warrants revocation of Respondent's license to practice medicine.

Committee member A finds that because charge H states not that Respondent failed to sign a release but, rather, that Respondent failed to make available, within thirty days of an investigator's request, records relevant to the investigation being conducted, the testimony that Respondent didn't sign a release that might have resulted in the production of records does not support the charge.

Committee members B and C acknowledge that the Department has not met its burden of proof of most of the charges and that Respondent has no obligation to prove that his credentials are legitimate. But they are nonetheless persuaded, by the following, that Respondent could not hold a valid medical degree:

Susan Fuller of the Education Department was asked whether she would have granted licenses to Respondent and his sister if she had seen a document in the Department's possession but not in evidence in this matter, as there was no testimony to authenticate it. Her answer was "No" (T 1312-1313). Committee members B and C recognize that that document is not in evidence but, as in the case of the letter of Dr. Perea to the ECFMG (Ex 21 K, pp. 91-92) denying the bona fides of Respondent's medical degree, which was received in evidence without authenticating testimony, they believe that Ms. Fuller's testimony regarding the document not in evidence warrants substantial weight. Mr. Kelley, an official of the ECFMG, had inquired of the UACJ whether Dr. Joseph Kleinplatz was a legitimate graduate of that school. Dr. Perea of the UACJ replied that Dr. Kleinplatz was not. Although the letter, in evidence, was not authenticated by Dr. Perea in a personal appearance, Mr. Kelley, an experienced ECFMG official, gave it sufficient credence to question Dr. Kleinplatz's qualifications and the ECFMG decided to investigate his credentials. Because the ECFMG did not have the resources to conduct such an investigation, it deferred its conclusion and decided to accept the decision of the Illinois Disciplinary Agency which was then conducting a hearing based on a challenge of the legitimacy of Dr. Kleinplatz's UACJ graduation. Committee member A concludes that as there was no testimony to support the validity of the content of the Perea letter, it is hearsay—relevant, but ultimately of no probative value.

Respondent told OPMC investigator Palk that he was concerned about his physical safety because of the litigation against him in Illinois (T 363), but there was no testimony or other evidence that he advised any law enforcement agency about that fear.

In addition, Respondent joined the UACJ alumni association twenty years after his alleged graduation from the school. To join the association, he submitted as proof that he was a UACJ graduate the Título that the Department contends is fraudulent. There is no official confirmation from the UACJ that Respondent was in fact a graduate (T 1887). Committee members B and C consider Respondent's joining the alumni group a transparent ploy to influence the Committee. Committee member A believes that there may be any number of legitimate reasons for which someone may delay in joining his or her alumni association, and he therefore concludes that Respondent's such action does not support the charge that he did not graduate.

Respondent called witnesses who live in Mexico and are UACJ graduates to support his assertion that he also is a bona fide graduate. Yet not one of them could confirm that (T 1887, 2596).

In sum, the majority of the Hearing Committee finds that Respondent's apparently desperate efforts to prove that he is a legitimate UACJ graduate, when there was no obligation that he do so, support the conclusion that he is not. Again, Committee member A dissents, noting that the Department bears—and has not met—the burden of proof of the invalidity of Respondent's credentials.

Conclusions as to Respondent's Employment with 14th Street Medical

As to Respondent's employment with 14th Street Medical, the Committee finds that Respondent contradicted himself by representing on an application for employment at St. Barnabus Hospital that he had worked there as a physician and by telling Annette Palk that he had not worked at 14th Street Medical and had had no medical connection with that office. Accordingly, there is insufficient credible evidence to enable the Hearing Committee to determine whether Respondent actually worked at 14th Street Medical in any capacity, but, in any case, he lied either on his St. Barnabus application or to Ms. Palk.

In general, the Hearing Committee found Annette Palk and Susan Fuller to be credible witnesses, but neither they nor, ultimately, any of the other witnesses could give firsthand, reliable evidence as to the authenticity of Respondent's medical school credentials, which is the threshold issue in this matter.

In view of the foregoing, the Hearing Committee determines, by a majority of two to one unless otherwise specifically noted, as follows:

1. In applying for a New York medical license and for registration in order to practice as a physician in the state of New York, Respondent intentionally misrepresented, with the intention to deceive, that he had completed all of the requirements for and graduated from the UACJ with the degree of Title of Physician-Surgeon and was licensed as a physician in Mexico in 1980.
2. In support of his application for a medical license and for registration, Respondent fraudulently furnished to the New York State Education Department documents that he knew were not valid.
3. There is no credible evidence that Respondent conspired with Belle Kleinplatz Goldstein to commit fraud as to the medical school credentials that they furnished to the Department of Education or as to the certifications in verification of such credentials [concluded unanimously].
4. On his October 1997 New York re-registration application, Respondent intentionally misrepresented, with intent to deceive, that no other state had instituted charges against him for professional misconduct, unprofessional conduct, incompetence, or negligence or had revoked, suspended, or accepted surrender of a professional license that he held [concluded unanimously].
5. On that same re-registration application, Respondent intentionally misrepresented, with intent to deceive, that no hospital or licensed facility had restricted or terminated his professional training, employment, or privileges, or that he had not voluntarily or involuntarily resigned or withdrawn from such association to avoid the imposition of such action due to professional misconduct, unprofessional conduct, incompetency, or negligence [concluded unanimously].
6. When in April 1979 Respondent applied to take the ECFMG examination, he intentionally misrepresented, with intent to deceive, that he was conferred, or expected to receive, a degree of Medical Doctor in June 1979 and that he received or expected to receive an unrestricted license to practice medicine in June 1979.
7. During that application process, Respondent fraudulently submitted to ECFMG documents that he knew were not valid.
8. When Respondent applied to Connecticut in 1984 and Maine in 1997 for licensing as a physician so as to practice medicine in those states, on his applications and during the application processes, Respondent intentionally misrepresented, with intent to deceive, that he had completed his training and was a graduate of the medical school of the UACJ and that he had earned a degree of Title of Physician-Surgeon from the UACJ.
9. When in 1998 Respondent applied to St. Barnabus Hospital/Correctional Health Services for appointment to its medical staff as a psychiatrist, he intentionally misrepresented and/or concealed known facts, with intent to mislead, as follows: (a) he denied that he had been subject to revocation, suspension, reduction, limitation,

probation, non-renewal or voluntary relinquishment or diminution of membership on any hospital medical staff and/or institutional affiliation or status [concluded unanimously]; (b) he concealed that he was licensed as a medical doctor or had been so licensed within the last ten years in the state of Illinois [concluded unanimously] ; and (c) he represented that he had graduated from the UACJ with the degree of medical doctor.

10. When in 1980 Respondent applied for admission to St. Vincent's Hospital and Medical Center's PGY1 program, he intentionally misrepresented, with intent to deceive, that he was a graduate of the medical school of the UACJ and that he had earned the degree of medical doctor from the UACJ.

11. By failing to sign a release authorizing the production by the UACJ of copies of his complete medical school record maintained there, Respondent willfully refused and/or failed to make available within thirty days records that were relevant to the OPMC's investigation into whether Respondent had completed the requirements for and had graduated with a medical degree and into the validity of documents submitted to the Education Department and OPMC relating to Respondent's professional misconduct.

VOTE OF THE HEARING COMMITTEE

In view of the foregoing, the Hearing Committee concludes as to the specifications and votes by a majority of two to one, unless otherwise specified below, as follows:

FIRST SPECIFICATION

Fraudulent obtaining of license

SUSTAINED except as to A(3)

[Unanimous as to A]

SECOND THROUGH EIGHTH SPECIFICATIONS

Fraudulent practice

SUSTAINED except as to A(3), E(1)(a), and G

[Unanimous as to A, B, B(1), B(1)(a), B(1)(b), E, E(1), E(1)(b), E(1)(c), E(1)(e), and F]

NINTH THROUGH FOURTEENTH SPECIFICATIONS

False report

SUSTAINED except as to E(1)(a)

[Unanimous as to A, B, B(1), B(1)(a), B(1)(b), E, E(1), E(1)(b), E(1)(c), E(1)(e), and F]

FIFTEENTH THROUGH TWENTY-FIRST SPECIFICATIONS

Moral unfitness

SUSTAINED except as to A(3), E(1)(a), and G

[Unanimous as to A, B, B(1), B(1)(a), B(1)(b), E, E(1), E(1)(b), E(1)(c), E(1)(e), and F]

TWENTY-SECOND SPECIFICATION

Violation of Public Health Law Section 2805-k

SUSTAINED except as to E(2)

[Unanimous as to E]

TWENTY-THIRD SPECIFICATION

Failing to make records available

SUSTAINED

DETERMINATION OF THE HEARING COMMITTEE

The Hearing Committee has considered not only the entire record in this matter but as well its overall impression of Respondent in view of his failure to appear before the Committee and afford it the chance to hear his testimony and to consider demeanor evidence. The Committee has also considered Respondent's character, as evidenced by his apparent omissions and falsifications on his several applications in evidence. The majority of the Hearing Committee is persuaded that Respondent never received a valid medical school diploma and was not, then, entitled to a license to practice medicine in New York. The majority of the Committee, therefore, finds that Respondent is practicing medicine without a valid license and that such practice constitutes a serious threat to the people of the state of New York.

In view of all the foregoing and after seriously considering all possible sanctions, the Committee determines, by a majority of two to one, that no penalty is appropriate short of revocation of Respondent's license.

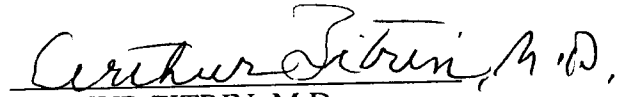
This penalty represents the Determination of the Hearing Committee, as does its majority vote on the charges and specifications.

ORDER

Based upon the foregoing, it is hereby ordered that:

Respondent's license to practice medicine in the state of New York is hereby
REVOKED.

Dated: New York, New York
August 29, 2002



ARTHUR ZITRIN, M.D.

Chairperson

ALAN KOPMAN

LEON NADROWSKI, M.D.

IN THE MATTER
OF
JOSEPH SAMUEL KLEINPLATZ

STATEMENT
OF
CHARGES

JOSEPH SAMUEL KLEINPLATZ, the Respondent, was licensed to practice medicine in New York State on or about October 28, 1986, by the issuance of license number 168381 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about July 4, 1986, Respondent made application to the New York State Education Department for a medical license and for registration so as to practice medicine as a physician in the state of New York.
1. On the application and during the application process, Respondent intentionally misrepresented, with the intention to deceive, the following:
 - a. that Respondent had completed all of the requirements and was a graduate of the medical school at the Universidad Autonoma de Ciudad Juarez, Mexico (Autonomous University of the City of Juarez, Mexico, hereinafter referred to as "UACJ");
 - b. that Respondent had earned a degree of Title of Physician-Surgeon, known as a "Titulo", from the UACJ;
 - c. that Respondent was licensed as a physician in Mexico in 1980.

2. During the application process, Respondent, fraudulently furnished documents to the New York State Education Department in support of his application for a medical license and for registration which Respondent knew were not valid;
3. Respondent conspired with his sister, Belle Kleinplatz Goldstein, to fraudulently furnish to the Department of Education diplomas and transcripts which purport to confer upon Respondent and his sister the degree of physician/surgeon, and, certify completion of courses required for said degree, respectively, and they conspired to fraudulently furnish to the Department of Education certifications purporting to verify the issuance of said documents.

B. The Respondent filed a New York State physician re-registration application dated on or about October 28, 1997 with the Division of Professional Licensing Services of the New York State Education Department.

1. On the re-registration application, Respondent intentionally misrepresented, with intent to deceive, the following:
 - a. In response to the question " Has any other state or country instituted charges against you for professional' misconduct, unprofessional conduct , incompetence or negligence, or, revoked, suspended or accepted surrender of a professional license held by you?" Respondent answered, "No";
 - b. In response to the question " Has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges, or have you voluntarily or involuntarily resigned or

withdrawn from such association to avoid the imposition of such action due to professional misconduct, unprofessional conduct, incompetency, or negligence?", Respondent answered, "No".

C. On or about April 19, 1979, Respondent submitted an application to the Educational Commission for Foreign Medical Graduates (ECFMG) to take the ECFMG examination.

1. On the application, Respondent intentionally misrepresented, with the intention to deceive, the following:

- a. that he was conferred, or expected to receive, a Degree of Medical Doctor (M.D.) in June 1979;
- b. that he received or expected to receive an unrestricted license to practice medicine in June 1979.

2. During the application process Respondent fraudulently submitted documents to ECFMG which Respondent knew were not valid.

WITHDRAWN 6/28/09
EBS

D. Respondent made applications to the states of Connecticut, ~~Illinois~~ and Maine, in or about October 1984, ~~July 1991~~ and March 1997, respectively, for licensing as a physician so as to practice medicine in those states:

1. On the applications and/or during the application processes, Respondent intentionally misrepresented, with the intention to deceive, the following:

- a. that Respondent had completed his training and was a graduate of the medical school of the UACJ;
- b. that Respondent had earned a degree of Title of

Physician-Surgeon from the UACJ.

2. During the application processes of these states, Respondent fraudulently submitted documents to each state in support of his application for a license which Respondent knew were not valid.
- E. On or about September 8, 1998, Respondent made application to St. Barnabus Hospital/Correctional Health Services for appointment to the medical staff as a psychiatrist.
1. On said application to St. Barnabus Hospital/Correctional Health Services, Respondent intentionally misrepresented and/or concealed known facts, with intent to mislead, as follows:
 - a. Respondent denied that he was the subject of an investigation by the Department of Health of the state of New York;
 - b. Respondent denied that he had been the subject to revocation, suspension, reduction, limitation, probation, non-renewal or voluntary relinquishment or diminution of membership on any hospital medical staff and/or institutional affiliation or status;
 - c. Respondent concealed the fact that he was licensed as a medical doctor, or had been so licensed within the past 10 years, in the state of Illinois;
 - d. Respondent represented that he graduated from the UACJ with a degree as a medical doctor;
 - e. Respondent represented that he had been employed as a physician at 14th Street Medical from June 1997 through the date of the application, September 8, 1998.

professional misconduct by Respondent;

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FRAUDULENT OBTAINING OF LICENSE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(1)(McKinney Supp. 1999) [formerly, N.Y. Educ. Law §6509 (1)] by fraudulently obtaining a license to practice medicine in the state of New York, as alleged in the facts of:

1. A, A(1) including subparagraphs (a) through (c), A(2) and A(3).

SECOND THROUGH EIGHTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1999) [formerly, N.Y. Educ. Law §6509 (2)] by practicing the profession of medicine fraudulently as alleged in the facts of the following:

2. A, A(1) including subparagraphs (a) through (c), A(2) and A(3);
3. B, B(1) including subparagraphs (a) and (b);
4. C, C(1) including subparagraphs (a) and (b), and C(2);
5. D, D(1) including subparagraphs (a) and (b), and D(2);
6. E, E(1) including subparagraphs (a) through (e);
7. F, F(1) including subparagraphs (a) and (b);
8. G.

NINTH THROUGH FOURTEENTH SPECIFICATIONS

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21)(McKinney Supp. 1999) [formerly, N.Y. Educ. Law §6509 (9) and 8 N.Y.C.R.R. § 29.1 (6)] by wilfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

9. A, A(1) including subparagraphs (a) through (c), and A(2);
10. B, B(1) including subparagraphs (a) and (b);
11. C, C(1) including subparagraphs (a) and (b), and C(2);
12. D, D(1) including subparagraphs (a) and (b), and D(2);
13. E, E(1) including subparagraphs (a) through (e);
14. F, F(1) including subparagraphs (a) and (b).

FIFTEENTH THROUGH TWENTY-FIRST SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1999) [formerly, N.Y. Educ. Law §6509 (9) and 8 N.Y.C.R.R. § 29.1 (5)] by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

15. A, A(1) including subparagraphs (a) through (c), A(2) and A(3);
16. B, B(1) including subparagraphs (a) and (b);
17. C, C(1) including subparagraphs (a) and (b), and C(2);
18. D, D(1) including subparagraphs (a) and (b), and D(2);
19. E, E(1) including subparagraphs (a) through (e);

- 20. F, F(1) including subparagraphs (a) and (b);
- 21. G.

TWENTY-SECOND SPECIFICATION
VIOLATION OF PUBLIC HEALTH LAW § 2805-k

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(14)(McKinney Supp. 1999) in that he violated Public Health Law Section 2805-k by failing to disclose and provide information regarding a professional medical misconduct proceeding pending in the state of New York as alleged in the facts of:

- 22. E, E(2)

TWENTY-THIRD SPECIFICATION
FAILING TO MAKE RECORDS AVAILABLE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(28)(McKinney Supp. 1999) by failing to make available within thirty days relevant records with respect to an inquiry or complaint about the Respondent's professional misconduct, as alleged in the facts of:

- 23. ~~G.~~ H.

DATED: July 13, 1999
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

REMOVED BY
SPT. 6/28/2000
(9/98)