

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

PUBLIC December 20, 1991

Samir Malek, Physician
416 72nd Street
Brooklyn, New York 11209-1605

Re: Application for Restoration

Dear Dr. Malek:

Enclosed please find the Commissioner's Order regarding Case No. 91-196-60R which is in reference to Calendar No. 0011830. This order and any decision contained there in goes into effect five (5) days after the date of this letter.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By: *Gustave Martine*

Gustave Martine
Supervisor

cc: Stanley D. Friedman, Esq.
McAloon, Friedman & Mandell, P.C.
116 John Street
New York, New York 10038

The University of the State of New York
Education Department



IN THE MATTER

of the

Application of SAMIR MALEK for
restoration of his license to practice
medicine in the State of New York

Case No. 91-196-60R

It appearing that the license of SAMIR MALEK, 416 72nd Street, Brooklyn, New York 11209-1605, to practice medicine in the State of New York, was revoked by action of the Board of Regents on March 17, 1989, said revocation having taken effect on June 27, 1989 and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendation of the Committee on the Professions, now, pursuant to action taken by the Board of Regents on October 18, 1991, it is hereby

ORDERED that the petition for restoration of license No. 117655, authorizing SAMIR MALEK to practice medicine in the State of New York, is denied, but that the revocation of said license is stayed, and petitioner is placed on probation for a period of two years under certain terms and conditions.



IN WITNESS WHEREOF, I, THOMAS SOBOL,
Commissioner of Education of the State of New
York, for and on behalf of the State Education
Department, do hereunto set my hand and affix
the seal of the State Education Department at
the City of Albany, this 10th day of December,
1991.

Thomas Sobol

Commissioner of Education

Case No. 91-196-60R

It appearing that the license of SAMIR MALEK, 416 72nd Street, Brooklyn, New York 11209-1605, to practice medicine in the State of New York, having been revoked by action of the Board of Regents on March 17, 1989, said revocation having become effective on June 27, 1989, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendation of the Committee on the Professions, now, pursuant to action taken by the Board of Regents on October 18, 1991, it was

VOTED that the petition for restoration of license No. 117655, authorizing SAMIR MALEK to practice medicine in the State of New York, be denied, but that the revocation of said license be stayed, and that petitioner be placed on probation for a period of two years under certain terms and conditions.

TERMS AND CONDITIONS

1. That petitioner, during the period of probation, shall act in all ways in a manner befitting petitioner's professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by petitioner's profession;
2. That petitioner shall submit written notification to the Director, Office of Professional Medical Conduct, Corning Tower, Room 438, Empire State Plaza, Albany, NY 12237, of any employment and practice, of residence and telephone number, of any change in employment, practice, residence, or telephone number within or without the State of New York;
3. That petitioner shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that petitioner has paid all registration fees due and owing to the NYSED and petitioner shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by petitioner to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. That petitioner shall submit written proof to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) petitioner is currently registered with the NYSED, unless petitioner submits written proof that petitioner has advised DPLS, NYSED, that petitioner is not engaging in the practice of petitioner's profession in the State of New York and does not desire to register, and that 2) petitioner has paid any fines which may have previously been imposed upon petitioner by the Board of Regents, said proof of the above to be submitted no later than the first two months of the period of probation;
5. That during the period of probation, petitioner may only engage in practice in a supervised setting;
6. During the period of his probation petitioner must provide professional medical services, without charge, as a public service to indigent patients in an area of Kings County which has been determined by the New York City Department of Health to be a poverty area, said service to occur on one day of each week. Prior to commencing such community service, petitioner shall obtain the approval of said service from the Executive Secretary of the State Board for Medicine, and the provision of such community service by petitioner shall be reviewed every six months by the Executive Secretary for the State Board for Medicine, and said Executive Secretary shall be authorized to require petitioner to submit such reports and documentation as may be necessary in order for him to determine whether petitioner has complied with the terms of probation;

7. That petitioner must disclose to any other jurisdiction in which he may make application for licensure or restoration of licensure, the full terms of his probation in the State of New York;
8. That so long as there is full compliance with every term herein set forth, petitioner may continue to practice his aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with or any other violation of the aforementioned terms of probation, the Director, Office of Professional Medical Conduct may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Public Health Law.

THE UNIVERSITY OF THE STATE OF NEW YORK
The State Education Department

Report of the Committee on the Professions
Application for Restoration of Medical License

Re: Samir Malek
(Personal Appearance)

Attorney: Stanley D. Friedman

Samir Malek, 416 72nd Street, Brooklyn, New York 11209-1605, petitioned for restoration of his medical license. The chronology of events is as follows:

- 09/06/73 Licensed to practice medicine in New York State.
- 04/14/88 Pled guilty to the crime of Offering a False Instrument for Filing in the Second Degree. (See "Disciplinary History.")
- 02/15/89 Regents Review Committee recommended that license be revoked.
- 03/17/89 Regents voted revocation.
- 05/08/89 Commissioner's Order served, but stayed by Temporary Restraining Order.
- 06/27/89 Temporary Restraining Order vacated and revocation effective.
- 07/03/90 Petition for restoration submitted. (See "Petition for Restoration.")
- 02/28/91 Peer Panel restoration review. (See "Report and Recommendation of Peer Review Panel.")
- 04/26/91 Report of Peer Review Panel.
- 08/13/91 Report of personal appearance and recommendation of the Committee on the Professions. (See "Recommendation of the Committee on the Professions.")

Disciplinary History. On April 14, 1988 in the Criminal Court of the City of New York, Dr. Malek was convicted, after pleading guilty, of Offering a False Instrument for Filing in the Second Degree, a Class A misdemeanor. Dr. Malek admitted that from on or

about January 1, 1983 until July 11, 1984, he submitted claims under the New York Medical Assistance Program for care, services and supplies, despite having required his obstetrical Medicaid patients to pay a fee for each office visit. Dr. Malek was sentenced to a conditional discharge, and ordered to make restitution to his patients in the amount of \$10,000.00.

On September 12, 1988 the Department of Health charged Dr. Malek with professional misconduct in that he had been convicted of committing an act constituting a crime under New York State Law.

On November 9, 1988 Dr. Malek appeared before the Regents Review Committee. He was represented by his attorney, Jerry I. Lefkowitz, Esq. On February 15, 1989 the Committee recommended that Dr. Malek's license be revoked. On March 17, 1989 the Board of Regents voted revocation. On May 8, 1989 the Commissioner's Order was served. On that same date Dr. Malek obtained a Temporary Restraining Order. The Temporary Restraining Order was vacated on June 27, 1989 and the revocation became effective that date.

Petition for Restoration. On July 3, 1990, Dr. Malek submitted a petition for restoration of his medical license. After briefly reviewing his personal and professional background, Dr. Malek described his obstetrical/gynecological practice at the time of the revocation.

Although he admitted to violating the law, Dr. Malek stressed that he did so without any criminal intent. Specifically, he stated that during 1983 and 1984 he billed his Medicaid prenatal patients \$500.00 in addition to the monies received from Medicaid. Dr. Malek contended that he did this, not for monetary gain, but because it allowed him to spend a greater amount of time with each patient and to cultivate a more continuous physician/client relationship. He maintained that by billing the Medicaid patients at the same rate as his private patients he attempted to assure that they would come in for proper prenatal care. Dr. Malek asserted that he was not trying to make money by doing this, but he was attempting to weed out the patients who did not properly undertake prenatal care and to assure the patient, the fetus, and himself that proper care was being rendered. Dr. Malek admitted, that in part, it may have been a selfish act as he was indirectly protecting himself against possible claims of negligence. He said that, in retrospect, it was a foolish and regrettable practice.

Dr. Malek stated that he did not attempt to disguise or conceal his conduct and that he gave each Medicaid patient a receipt for all monies charged, and disclosed the income on his income tax returns. When contacted by the Medicaid authorities, he said that he immediately ceased the additional billing and cooperated with their investigation. Dr. Malek noted that the

medical care he rendered was never questioned. Dr. Malek noted the moderate sentence imposed on him by the court.

In addition to the required chronological listing and supporting affidavits, Dr. Malek's petition contained a photocopy of the \$10,000.00 restitution check, a list of medical journals that he has reviewed, copies of certificates of continuing education, and letters of recommendation.

Report and Recommendation of Peer Review Panel. On February 28, 1991, Dr. Malek appeared before the Peer Review Panel (Carone, Lucariello, Stark). He was represented by his attorney, Stanley D. Friedman, Esq.

Mr. Friedman said that, at the time of his misconduct, Dr. Malek made a "stupid" assumption that if his Medicaid patients paid for Dr. Malek's services, they would be more likely to follow-up on their care. Although acknowledging that Dr. Malek's thinking was partly motivated by the worries caused by the malpractice crisis of the early 1980's, Mr. Friedman asserted that Dr. Malek was merely trying to get his obstetrical patients to follow-up on their prenatal care, and that the money involved was not a concern and was incidental to Dr. Malek's overall practice. Continuing, Mr. Friedman said that when Dr. Malek was told that his acts were wrong, he immediately ceased doing them and cooperated with the authorities.

Mr. Friedman said that Dr. Malek understands that what he did was wrong, and that the consequence of his misconduct has been a great blow to his family. Mr. Friedman, a former attorney for Lutheran Hospital with which Dr. Malek had been affiliated, said that he knows that petitioner is well respected there. Mr. Friedman noted that there has been no question as to Dr. Malek's medical competence. Additionally, Mr. Friedman noted petitioner's continuing medical education and submitted copies of additional courses Dr. Malek completed subsequent to filing the petition.

In committing the misconduct, Dr. Malek said that he was primarily concerned with quality for the prenatal care of his patients. He pointed out that an extensive review of his office records, by the Attorney General, revealed that the only impropriety was in the records of those patients that petitioner had come forth with when he was informed by the authorities of the extent of his misconduct.

Dr. Malek became very emotional when he spoke about how his life had changed since his criminal conviction. He stated that when his problems were publicized he became very depressed, but dealt with his depression by getting heavily involved in his continuing medical education.

The Department representative, Claudia J. Stern, Esq., asked Dr. Malek if, prior to the acts in question, he used any other methods to encourage proper prenatal care. Replying, Dr. Malek said that he would normally give instructions but that his experience showed that his self-paid patients complied with them more, and that the results of the non-paying patients were worse than those of the paying patients.

In response to additional questioning from Ms. Stern, Dr. Malek said that he began his Medicaid practice in 1974 and at that time was informed that he could only bill for such patients through Medicaid. When asked why he subsequently billed Medicaid patients directly when he knew it was wrong, Dr. Malek stated that he "never focused or looked at it this way" and that he was more concerned on how to avoid malpractice. Dr. Malek stated that in 1983 and 1984 Medicaid patients constituted about 10% of his practice.

The Panel asked Dr. Malek to clarify which of the two notions that had been expressed motivated the petitioner's actions: encouraging better care or avoiding malpractice lawsuits? Dr. Malek said that they both were reasons for his actions and that the two were connected.

Ms. Stern asked Dr. Malek to explain why his actions were wrong. In response, Dr. Malek said that his actions were not approved and that he realized he needs "to follow the rules." When asked what assurance there was that he would not make up his own rules again, Dr. Malek said that, if he was fortunate enough to be allowed to resume the practice of medicine, he would consult with an attorney to make sure he never got into such a situation again.

Further questioning revealed that the \$10,000 restitution amount was the result of retrospective formula to calculate restitution. However, in practice, he charged \$50 a visit, but if a patient could not pay, Dr. Malek said that he never forced payment or pursued the matter and never refused treatment.

Upon additional questioning by the Panel, Dr. Malek said that the idea of charging to improve patient care was his own and it derived from his observation of the difference in behavior of his self-paid patients and from his wholly insured patients. Dr. Malek stated that if his license is restored, he would go into partnership with the physician who took over his practice. When asked about that business arrangement, Mr. Friedman responded on behalf of Dr. Malek and said that petitioner was in no way now connected to that practice or received any remuneration for the practice. Mr. Friedman said that the arrangement with Dr. Ahmed, who took over the practice, is that if Dr. Malek's license is restored within a certain period of time, the two physicians would become equal partners. If Dr. Malek's license is not so timely restored, Dr. Ahmed would owe petitioner money based on the value of the practice.

Ms. Stern opposed the restoration of Dr. Malek's license, upon the grounds that Dr. Malek was poorly guided in his judgment and that there was no assurance he would not again be misguided. Ms. Stern also asserted that Dr. Malek had not shown a full understanding of his misconduct.

In his closing remarks, Mr. Friedman stated that the purpose of the system was to identify and correct a problem in society, tempered with patience and understanding, and that no further purpose would be served by further denying Dr. Malek the right to practice medicine. Mr. Friedman maintained that Dr. Malek had experienced a humiliating and severe loss in his own esteem, that he has cooperated in every way, that he has been humbled, and that he is contrite. Mr. Friedman contended that it was clear that Dr. Malek would not be seen by the disciplinary authorities again and that this situation was different from a criminal "trying to make someone rich." Mr. Friedman pointed out that Dr. Malek had rendered high quality care and emphasized, that as petitioner's Medicaid privileges had not yet been terminated, he followed the rules for two and one half years after he was told that his actions were wrong.

In its report, the Panel noted that none of its members had been able to completely comprehend the motivation and thinking behind Dr. Malek's original misconduct and did not find his explanations for his motives completely satisfying or plausible. Yet the Panel believed that the financial benefit of his actions, though significant, appeared minimal as compared to his total practice, and that his actions were unlikely to be repeated.

The Panel saw no convincing evidence that petitioner was lying about the explanation he had given for his misconduct, which was ill-conceived and reflected poor judgment at the time it was committed.

In view of the remorse expressed by Dr. Malek, his efforts at continuing education, the lack of patient harm inherent in his misconduct, the time that has passed since the actual misconduct, and the unlikelihood that he would repeat his misconduct, the Peer Review Panel recommended that his license be restored.

Additional Information. On or about July 25, 1991, the Committee on the Professions received from the attorney for Dr. Kamal U. Ahmed, petitioner's partner, a copy of an order made by Hon. Barry Jurowitz, of the Supreme Court of the State of New York, dated July 3, 1991, denying Dr. Ahmed's request for a preliminary injunction against Dr. Malek, but directing that Dr. Ahmed was to have unfettered access to and use of certain premises, and directing both parties to arrange for the storage of patient records at a mutually agreed upon site. Copies of a proposed order

to show cause for a preliminary injunction, a summons and complaint, and a memorandum of law in support of the proposed order, all of which relate to a dispute between the former business partners, were also submitted to the Committee. The applicant was notified by the Committee of its receipt of this material.

Recommendation of the Committee on the Professions. Dr. Malek, accompanied by John Langell, Esq., an attorney in the firm of the applicant's attorney, appeared before the Committee on the Professions (Fernandez, Cantres, Sauer) on August 13, 1991.

The Committee asked Dr. Malek for his reaction to the report of the Peer Review Committee. Dr. Malek replied that he agrees with the Peer Review Committee report, and that if his license is restored he intends to return to private practice.

With respect to the documents submitted by the attorney for Dr. Ahmed, Dr. Malek's former partner, Dr. Malek and Mr. Langell explained that the former partners were engaged in litigation over the sale of Dr. Malek's former practice to Dr. Ahmed, and that a judge had directed both physicians to arrange for the storage of patient records at a neutral site. Mr. Langell asserted that there was no basis in fact or in law for concluding that the litigation was relevant to Dr. Malek's application for the restoration of his license.

Dr. Malek informed the Committee that he is ineligible to be a participating physician in the Medicaid program due to his criminal conviction. The Committee asked Dr. Malek how he would provide medical care for indigent patients if his license were restored. Dr. Malek stated that he would treat such patients as a member of hospital staff, and the hospital could bill Medicaid.

The Committee questioned Dr. Malek about the responsibility a physician has to treat indigent patients who cannot pay. While Dr. Malek did not answer this question directly, he asserted that he had treated some patients who could not pay without following-up with them on their delinquent payments. However, Dr. Malek conceded that there was no procedure in his office for indigent patients to apply for a waiver of the standard fee because of their inability to pay.

Dr. Malek's approach to providing treatment to Medicaid eligible patients was of substantial concern to the Committee on the Professions. The Committee confronted Dr. Malek with the fact that his billing practices for pre-natal Medicaid patients, prior to the revocation of his license, resulted in high risk patients being screened out of his practice. As a result, only those patients who were able and willing to pay for Dr. Malek's care, and in his opinion, were more likely to take care of themselves during

their pregnancies, could avail themselves of Dr. Malek's services. Dr. Malek recognized that his other patients, who would not or could not pay for his services and who presented greater risks during their pregnancies, were deprived of his medical services. Dr. Malek conceded that his policy may have limited his practice to less risky patients, but asserted that his obstetrical care for Medicaid patients had been a small part of his practice.

Dr. Malek admitted, however, that Medicaid patients represented at least 25% of his \$300,000 per year practice and his policy of charging obstetric patients a per visit charge allowed him to continue to maintain a substantial portion of his income while insulating him from the potential liability of malpractice cases. He admitted that the patients he attempted to discourage from seeing him because of his per visit charge represented potentially the most difficult to treat. Dr. Malek continued to attempt to justify his rationale for the per visit charge, although he conceded that the approximately \$500 he charged Medicaid welfare patients, which represented approximately 1/12 of their food and clothing income, was high. The Committee noted that since Dr. Malek was barred by his action from participating in the Medicaid program, many of his poor patients would be deprived of his services because they could not pay for these services.

While the Committee on the Professions concurred with the Peer Review Panel's assessment of Dr. Malek's petition for restoration, the Committee was troubled by his lack of appreciation for the social responsibilities of a physician.

The Committee on the Professions voted unanimously to recommend to the Board of Regents that the revocation of Dr. Malek's medical license be stayed and that he be placed on probation for a period of two years. During the period of probation, petitioner must provide professional medical services, without charge, as public service to indigent patients in an area of Kings County determined by the New York City Department of Health to be a poverty area, for one day per week. Prior to commencing such community service, Dr. Malek shall obtain the approval of such service by the Executive Secretary of the State Board for Medicine. Dr. Malek's provision of such community service shall be reviewed every six months by the Executive Secretary of the State Board for Medicine, for compliance with the terms of probation.

Henry A. Fernandez, Chair

Lizette A. Cantres

Richard J. Sauer

Samir Malek, Physician
& Stanley D. Friedman, Esq.
McAloon, Friedman & Mandell,
116 John Street
New York, NY 10038

Postage	\$ 98
Certified Fee	1.00
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing Date and Address of Delivery	135
TOTAL Postage and Fees	\$ 133
Postmark of	



The University of

X-----

IN THE MATTER

OF

SAMIR MALEK
PHYSICIAN

X-----

STATE OF NEW YORK)
 SS.:
COUNTY OF NEW YORK)

Michele A. Haughton being duly sworn, deposes and says:

I am over the age of twenty-one years and am an employee of the New York State Education Department, One Park Avenue, 6th Floor, New York, New York 10016.

On the 20th day of December, 1991, I personally delivered to the Murray Hill Postal Station, the Duplicate Original Order of the Commissioner of Education Case No. 91-196-60R, in reference to Calendar No. 00830 and the Vote of the Board of Regents by Certified Mail - Return Receipt Requested to the respondent herein named at % Stanley D. Friedman, Esq., McAloon, Friedman & Mandell. P.C., 116 John Street, New York, New York 10038. The Certified Mail Receipt No. _____.

The effective date of the Order being the 25th day of, 1991.

Michele A. Haughton

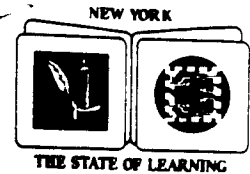
Sworn to before me this

day of 123 Dec 1991

Ronald J. Mastrion

RONALD J. MASTRION
Notary Public, State of New York
No. 43-4801171
Qualified in Richmond County
Commission Expires August 31, 1993

RSTNA sub file



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y.

OFFICE OF PROFESSIONAL DISCIPLINE
622 THIRD AVENUE, NEW YORK, NEW YORK 10017-6756

May 3, 1989

Samir F. Malek, Physician
416 72nd Street
Brooklyn, N.Y. 11209

Re: License No. 117655

Dear Dr. Malek:

Enclosed please find Commissioner's Order No. 9067. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations
By:

MOIRA A. DORAN
Supervisor

DJK/MAD/mn
Enclosures

CERTIFIED MAIL- RRR

cc: Jerry I. Lefkowitz, Esq.
116-55 Queens Blvd.
Forest Hills, N.Y. 11375

RECEIVED

MAY 4 1989

OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

**REPORT OF THE
SPTS REVIEW COMMITTEE**

SAMIR F. MALEK

CALENDAR NO. 9067



The University of the State of New York

IN THE MATTER
of the
Disciplinary Proceeding
against

SAMIR F. MALEK

No. 9067

who is currently licensed to practice as
a physician in the State of New York.

Report of the Regents Review Committee

SAMIR F. MALEK, hereinafter referred to as respondent, was given due notice of this proceeding and informed that he could appear and be represented by an attorney.

On November 9, 1988 respondent did appear and was represented by his attorney, Jerry I. Lefkowitz, Esq. Judith N. Stein, Esq., represented the Department of Health.

We have reviewed the record in this matter.

Our unanimous findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed follow:

FINDINGS OF FACT

1. Respondent was licensed to practice as a physician in

SAMIR F. MALEK (9067)

the State of New York by the New York State Education Department.

2. Respondent was convicted of committing an act constituting a crime, as set forth in the statement of charges annexed hereto, made a part hereof, and marked as Exhibit "A" as well as in the record herein.

DETERMINATION AS TO GUILT

The charge has been proven by a preponderance of the evidence and respondent is guilty of the same.

RECOMMENDATION AS TO THE
PENALTY TO BE IMPOSED

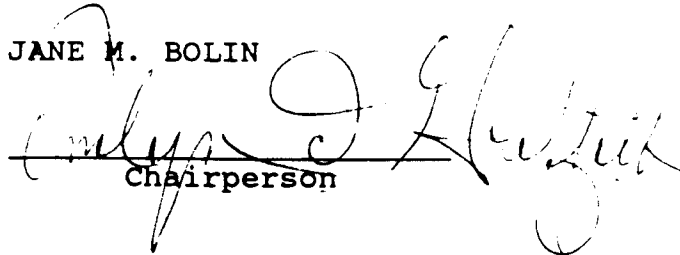
Respondent's license to practice as a physician in the State of New York be revoked upon the charge of which respondent has been found guilty. Respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein; but said application shall not be granted automatically.

Respectfully submitted,

EMLYN I. GRIFFITH

WALTER COOPER

JANE M. BOLIN


Chairperson

Dated: 2/15/89

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

-----X

IN THE MATTER : STATEMENT
OF : OF
SHAMIR MALEK, M.D. : CHARGES

-----X

The Bureau of Professional Medical Conduct alleges as follows:

1. SHAMIR MALEK, M.D., hereafter referred to as the Respondent, was authorized to practice medicine in New York State on September 6, 1973 by the issuance of license number 117655 by the New York State Education Department.

2. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1986 through December 31, 1988 at 416 72nd Street, Brooklyn, New York 12209.

3. Respondent is charged with professional misconduct within the purview of New York Education Law Section 6509 (McKinney 1987) as set forth in the specification.

SPECIFICATION

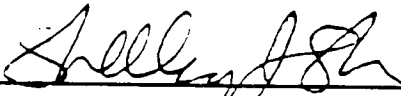
4. Respondent is charged with professional misconduct within the meaning of New York Education Law Section 6509(5)(a)(i) in that he has been convicted of committing an act constituting a crime under N.Y. State Law, specifically:

(a) On April 14, 1988 Respondent was convicted in the Criminal Court of the City of New York of a Class A misdemeanor of Offering a False Instrument for Filing in the Second Degree (P.L. Section 175.30) upon entering a plea of guilty.

(b) The indictment to which he pled guilty charged him with offering for filing, from on or about January 1, 1983 until July 11, 1984, written instruments containing false statements and information, in that Respondent submitted to McAuto Systems Group, Inc., a fiscal agent of the State of New York, claims under the New York Medical Assistance Program representing that the care, services and supplies itemized were due and no part had been paid whereas, Respondent knew payment from the Medicaid patients had been received.

(c) Respondent was sentenced to a conditional discharge and ordered to make restitution to his patients in the amount of \$10,000.00.

DATED: New York, New York
Sept 12 1988



SHELLEY J. SHERMAN
Deputy Counsel
Office of Professional Medical
Conduct

Approved March 17, 1989

No. 9067

Upon the report of the Regents Review Committee, the record herein, under Calendar No. 9067, and in accordance with the provisions of Title VIII of the Education Law, it was

Voted:* That the report, findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed rendered by the Regents Review Committee in the matter of SAMIR F. MALEK, respondent, be accepted; that respondent is guilty of the charge by a preponderance of the evidence; that respondent's license and registration to practice as a physician in the State of New York be revoked; that respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein, but said application shall not be granted automatically; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote.

*Regent Lustig abstained

**ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK**

SAMIR F. MALEK

CALENDAR NO. 9067



The University of the State of New York

IN THE MATTER

OF

SAMIR F. MALEK
(Physician)

DUPLICATE
ORIGINAL ORDER
NO. 9067

Upon the report of the Regents Review Committee, under Calendar No. 9067, the record herein, the vote of the Board of Regents on March 17, 1989, and in accordance with the provisions of Title VIII of the Education Law, which report and vote are incorporated herein and made a part hereof, it is

ORDERED that the report, findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed rendered by the Regents Review Committee in the matter of SAMIR F. MALEK, respondent, be accepted; that respondent is guilty of the charge by a preponderance of the evidence; that respondent's license and registration to practice as a physician in the State of New York be revoked; and that respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of this order, but said application shall not be granted automatically.

SAMIR F. MALEK (9067)

IN WITNESS WHEREOF, I, Thomas Sobol,
Commissioner of Education of the State
of New York, for and on behalf of the
State Education Department and the Board
of Regents, do hereunto set my hand and
affix the seal of the State Education
Department, at the City of Albany, this
3rd day of April, 1989.

Thomas Sobol

Commissioner of Education