



**Board for Professional Medical Conduct**

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

**C. Maynard Guest, M.D.**  
Executive Secretary

October 20, 1992

Mr. Robert Bentley  
Director  
Division of Professional Licensing Services  
New York State Education Department  
Empire State Plaza-Cultural Education Center  
Albany, New York 12230

**RE: License No. 121952**

Effective Date 10/23/92

Dear Mr. Bentley:

**Enclosed please find Order #BPMC 92-85 of the New York State Board for Professional Medical Conduct concerning Dr. Vinodchandra Modi.**

Please be advised that this determination by the hearing committee may be appealed to the Administrative Review Board by either side within fourteen (14) days of the service of this order. We will notify you if any such appeal is taken.

Sincerely,

**C. Maynard Guest, M.D.**  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Daniel Kelleher

bcc: Chris Hyman  
Roy Nemerson  
Tyrone Butler  
Kenneth Spooner  
Vincent Martiniano  
Anne Bohenek



# STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

October 16, 1992

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

Vinodchandra Modi, M.D.  
c/o Mud Creek Clinic  
PO Box 129 HC 77  
Grethel, Kentucky 41631

NOT APPEALED

**RE: In the Matter of Vinodchandra Modi, M.D.**

Dear Ms. Dwier and Dr. Modi:

Enclosed please find the Determination and Order (No. BPMC 92-85) of the Hearing Committee in the above referenced matter. **This Determination and Order shall be deemed effective upon receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.**

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person to:**

Office of Professional Medical Conduct  
New York State Department of Health  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must than 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 (p), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he determination of a committee on professional medical conduct may be reviewed by the administrative review board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Corning Tower - Room 2503  
Empire State Plaza  
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the  
Administrative Review Board's Determination and Order.

Very truly yours,

A handwritten signature in cursive script, reading "Tyrone T. Butler".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:crc  
Enclosure

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

-----X  
**IN THE MATTER** : **DETERMINATION**  
:   
**OF** : **AND**  
:   
**VINODCHANDRA MODI, M.D..** : **ORDER**  
-----X

ORDER NO. BPMC-92-85

A Notice of Hearing and Statement of Charges, both dated May 5, 1992, were served upon the Respondent, Vinodchandra Modi, M.D. **JANE C. McCONNELL (Chair), ROBERT J. O'CONNOR, M.D., and DANIEL A. SHERSER, M.D.,** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. A hearing was held on August 18, 1992. The Department of Health appeared by Dawn Dweir, Esq., Associate Counsel. The Respondent did not appear in person and was not represented by counsel. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

**STATEMENT OF CASE**

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with

misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to Education Law Sections 6530(9)(a)(ii) and 6530(b). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

#### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Vinodchandra Modi, M.D. (hereinafter Respondent) was authorized to practice medicine in New York State On September 17, 1974 by the issuance of license number 121952 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. Respondent was last registered to practice medicine in New York State in 1974 when he received his medical license. (Pet. Ex. #3).

2. On March 8, 1989 in the United States District Court, Western District of Virginia, Respondent was convicted, upon a plea of guilty, of one count of income tax evasion, a felony, in violation of Section 7201, Title 26, United States Code. (Pet. Ex. #4).

3. The felony conviction involved Respondent's participation in a scheme whereby Respondent was paid approximately \$54,000 for referring certain of his patients to a Kentucky company that leased oxygen equipment to beneficiaries of the Black Lung Program of the Department of Labor. Respondent signed blank Certificates of Medical Necessity and authorized agents of Home Medical Rentals to sign Certificates of Medical Necessity in his absence for the purpose of fraudulently obtaining monies from the United States Department of Labor. (Pet. Ex. #4 and 5).

4. Respondent was sentenced to a period of five years imprisonment and fined \$100,000. The execution of said imprisonment was stayed, with the imposition of four years of probation, on the condition that Respondent pay the fine within thirty days, perform 800 hours of community service and pay all taxes, interest, penalties or civil liabilities owed to the Internal Revenue Service or the Department of Labor as determined by later proceedings. (Pet. Ex. # 4).

5. On July 27, 1989, following a hearing,, the Virginia Board of Medicine (hereinafter Virginia Board) entered an order in which Respondent was found to have violated Sections 54.1-2915.A(1)

(fraud or deceit in the practice of any branch of the healing arts) and (3) (unprofessional conduct as defined in this chapter) [formerly Section 54-316(1) and (3)], as further defined in Section 54.1-2914.A(7), (9) and (13) [formerly Section 54-317(9), (11) and (14)] of the Code of Virginia. (Pet. Ex. #7).

6. The Virginia Board found that Respondent altered the laboratory results on twelve patients' serum amylase levels, by recording levels above normal. (Pet. Ex. #6).

#### **CONCLUSIONS OF LAW**

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee unanimously concluded that the Department has met its burden of proof. The preponderance of the evidence clearly demonstrated that Respondent was convicted of a crime under Federal law, by virtue of his guilty plea to a charge of income tax evasion. This constitutes professional misconduct as defined in Education Law Section 6530(a)(ii). The Hearing Committee therefore concluded that the First Specification should be sustained.

The Hearing Committee further found that Respondent had been found guilty of professional misconduct by the Virginia Board. Respondent was found to have falsified laboratory data for a number of his patients. The falsification of laboratory data would constitute the fraudulent practice of medicine, in violation of



Section 6530(2), if committed in New York State. Consequently, the Hearing Committee concluded that the Second Specification should also be sustained.

#### **DETERMINATION AS TO PENALTY**

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

A physician's license to practice medicine is a privilege granted to the members of the profession. By holding oneself out as a physician, Respondent has placed himself in a position of public trust. Respondent's conduct demonstrates a grave breach of that public trust. He defrauded the federal government out of a considerable sum of money, intended to provide needed health care services to the public, by signing falsified Certificates of Medical Necessity to the Black Lung Program of the United States Department of Labor, and by authorizing other agents to sign blank Certificates in his absence.

Respondent was also found to have falsified laboratory results for a number of his patients. He repeatedly and deliberately engaged in fraudulent and deceitful conduct. His conduct clearly demonstrated that Respondent lacks the moral

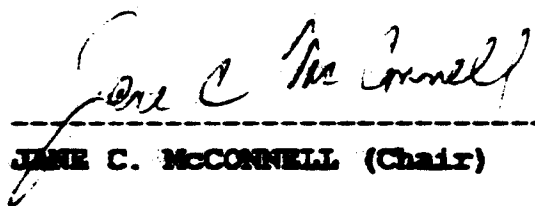
integrity necessary to practice the profession of medicine. A mere period of suspension, even if combined with some form of retraining, would not instill in Respondent the integrity which he lacks. As a result, the Hearing Committee concluded that revocation was the only appropriate sanction.

**ORDER**

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First and Second Specifications of misconduct, as contained in the Statement of Charges (Petitioner's Exhibit #2) are **SUSTAINED**, and
2. Respondent's license to practice medicine in New York State is hereby **REVOKED**.

DATED: Albany, New York  
*Jan 15*, 1992

  
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**JANE C. McCONNELL (Chair)**

ROBERT J. O'CONNOR, M.D.  
DANIEL A. SHERBER, M.D.

TO: Dawn Dweir, Esq.  
Associate Counsel  
New York State Department of Health  
5 Penn Plaza - 6th Floor  
New York, New York 10001

Vinodchandra Modi, M.D.  
c/o Mud Creek Clinic  
P.O. Box 129 HC 77  
Grethel, Kentucky 41631

**APPENDIX I**

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

CASE OPMC Modi  
1215 EXHIBIT 2  
FOR I.D. \_\_\_\_\_ M.S. \_\_\_\_\_  
INV. EVID. 8/18/92 M.S. \_\_\_\_\_

-----X  
: IN THE MATTER :  
: OF :  
: VINODCHANDRA MODI, M.D. :  
:-----X

NOTICE OF  
REFERRAL  
PROCEEDING

TO: VINODCHANDRA MODI, M.D.  
P.O. Box 800  
Oakwood, VA 24631

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1992) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 18th day of June, 1992 at 3:15 in the afternoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT  
YOU IN THIS MATTER.

DATED: New York, New York

May 5<sup>th</sup>, 1992



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CHRIS STERN HYMAN  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

DAWN A. DWEIR  
Associate Counsel  
212 613-2615

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
VINODCHANDRA MODI, M.D. : CHARGES

-----X

VINODCHANDRA MODI, M.D., the Respondent, was authorized to practice medicine in New York State on September 17, 1974 by the issuance of license number 121952 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. Respondent was last registered to practice medicine in New York State in 1974 when he received his medical license.

**FIRST SPECIFICATION**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(ii) (McKinney Supp. 1992) in that he has been convicted of an act constituting a crime under federal law, specifically:

1. On March 8, 1989 in the United States District Court, Western District of

Virginia, Respondent was convicted, upon a plea of guilty, of one count of income tax evasion, a felony in violation of Section 7201, Title 26, United States Code. Said felony violation involved Respondent's participation in a scheme whereby Respondent was paid approximately \$54,000 for referring certain of his patients to a Kentucky company that leased oxygen equipment to beneficiaries of the Black Lung Program of the Department of Labor, signing blank Certificates of Medical Necessity and authorizing agents of Home Medical Rentals to sign Certificates of Medical Necessity in his absence for the purpose of fraudulently obtaining monies from the United States Department of Labor.

Respondent was sentenced to a period of five years of imprisonment and fined \$100,000.00. The execution of said imprisonment was stayed on the condition that Respondent pay the fine within 30 days, perform 800 hours of community service and pay all taxes, interest, penalties or civil liabilities owed to the

Internal Revenue Service or the Department of Labor as determined by later proceedings.

SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(b) (McKinney Supp. 1992) in that he was found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, specifically:

2. On July 27, 1989, following a hearing, the Virginia Board of Medicine entered an order in which Respondent was found to have violated Sections 54.1-2915.A(1) (fraud or deceit in the practice of any branch of the healing arts) and (3) (unprofessional conduct as defined in this chapter) [formerly Section 54-316(1) and (3)], as further defined in Section 54.1-2914.A(7), (9) and (13) [formerly Section 54-317(9), (11) and (14)] of the Code of Virginia by



altering the laboratory tests on 12 patients' amylase levels to show levels above normal. If said conduct was committed in New York state it would be a violation of New York Educ. Law Section 6530(2) (McKinney Supp. 1992) (practicing the profession fraudulently).

The Virginia Board of Medicine revoked Respondent's license to practice medicine in Virginia based on the conduct set forth in the two specifications above.

DATED: New York, New York

May 5, 1992



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CHRIS STERN HYMAN

Counsel

Bureau of Professional Medical  
Conduct