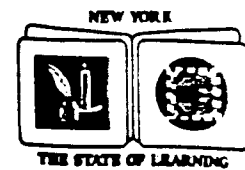


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THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

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

April 12, 1990

Michael John Orofino, Physician
266 White Plains Road
Eastchester, N.Y. 10707

Re: License No. 153655

Dear Dr. Orofino:

Enclosed please find Commissioner's Order No. 10350. 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/MAH/er
Enclosures

CERTIFIED MAIL- RRR

cc:

RECEIVED

APR 19 1990

Office of Professional
Medical Conduct

REPORT OF THE
REGENTS REVIEW COMMITTEE

MICHAEL JOHN OROFINO

CALENDAR NO. 10350



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

MICHAEL JOHN OROFINO

No. 10350

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

REPORT OF THE REGENTS REVIEW COMMITTEE

MICHAEL JOHN OROFINO, 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 December 20, 1989, the scheduled date of our hearing, neither petitioner nor respondent appeared before us in person in accord with their December 11, 1989 stipulation which was made part of the record herein.

Petitioner's and respondent's recommendation as to the penalty to be imposed, should respondent be found guilty, was that respondent's license to practice as a physician in the State of New York be suspended for five years, execution of said suspension stayed, five years probation, and 100 hours community service.

We have reviewed the record in this matter; and our unanimous

MICHAEL JOHN OROFINO (10350)

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 this State by the New York State Education Department.
2. Respondent was convicted of committing an act constituting a crime (first specification), as set forth in the statement of charges and the record herein.
3. Respondent was found to be in violation of Article Thirty-three of the Public Health Law by the Commissioner of Health (second specification), as set forth in the statement of charges and the record herein.

DETERMINATION AS TO GUILT

The charges contained in the statement of charges, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "A", have been proven by a preponderance of the evidence and respondent is guilty thereof.

RECOMMENDATION AS TO THE
PENALTY TO BE IMPOSED

Respondent's license to practice as a physician in the State of New York be suspended for five years and respondent be required to perform 100 hours of public service upon each specification of the charges of which respondent has been found guilty, said suspensions to run concurrently and said public service to be imposed concurrently and to total 100 hours, that execution of said

MICHAEL JOHN OROFINO (10350)

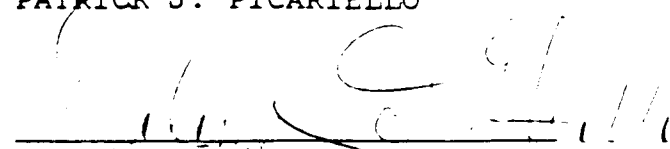
suspensions be stayed, and respondent be placed on probation for five years under the terms set forth in the exhibit annexed hereto, made a part hereof, and marked as Exhibit "B".

Respectfully submitted,

EMLYN I. GRIFFITH

JANE M. BOLIN

PATRICK J. PICARIELLO



Chairperson

Dated: February 16, 1990

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

-----X

IN THE MATTER : STATEMENT
OF : OF
MICHAEL JOHN OROFINO, M.D. : CHARGES

-----X

MICHAEL JOHN OROFINO, M.D., the Respondent, was authorized to practice medicine in New York State on March 25, 1983 by the issuance of license number 153655 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1989 through December 31, 1991, at 266 White Plains Road, Eastchester, New York 10707.

FIRST SPECIFICATION

1. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6509 (5) (a) (i) (McKinney 1985) in that he has been convicted of committing an act constituting a crime under New York Law, specifically:

On or about August 9, 1988, after plea of guilty, in the Supreme Court of the State of New York, County of Delaware, the Respondent was convicted of the following:

(a) One count of Falsifying Business Records in the First Degree, a class E felony, in violation of Section 175.10 of the Penal Law of the State of New York, in that on or about September 25, 1986, the Respondent, with intent to defraud made a false entry in the business records of a professional entity and his intent to defraud included his intent to commit another crime or to aid or conceal the commission thereof.

(b) One count of Conspiracy in the Fifth Degree, a Class A misdemeanor, in violation of Section 105.05(1) of the Penal Law of the State of New York, in that between July 1985 and February 1987, the Respondent, intending that conduct constituting a felony be performed (Criminal Possession of a Controlled Substance in the Fifth Degree), agreed with one or more persons to the performance of such conduct.

On or about October 24, 1988, Respondent was sentenced as follows: (1) As to the charge of Falsifying Business Records in the First Degree, five years probation and a fine in the sum of One Thousand Dollars (\$1,000.00); and (2) as to the charge of Conspiracy in the Fifth Degree, a fine in the sum of Five Hundred Dollars (\$ 500.00). In addition, Respondent was placed on probation for a period of five years which will expire on October 23, 1993.

SECOND SPECIFICATION

2. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6509 (5)(c) (McKinney 1985) in that he has been found by the Commissioner of Health to be in violation of Article 33 of the Public Health Law, specifically:

On or about March 30, 1989, the Commissioner of Health issued a Stipulation and Order whereby the Respondent admitted and the Commissioner found that Respondent had violated Article 33 of the Public Health Law, as follows:

(a) Respondent prescribed, distributed, possessed and had under his control a controlled substance, in violation of Public Health Law Sec. 3304(1), to wit: Respondent unlawfully received the drug Percodan by unlawfully writing a New York State triplicate prescription in the name of another person.

(b) Respondent prepared a New York State triplicate prescription and did not set forth the name, address and age of the ultimate user, in violation of Sec. 3332 (2)(a) of the Public Health Law, to wit: on fourteen occasions Respondent wrote prescriptions for Percodan in which either the name or address of the ultimate user were was false.

(c) Respondent obtained a controlled substance by the use of a false name or false address, in violation of Sec. 3397 (1)(a)(iii) of the Public Health Law, to wit: on fourteen occasions Respondent wrote prescriptions for the drug Percodan on which either the name of address was false.

A civil penalty in the sum of Forty-Seven Thousand Dollars (\$47,000.00) was assessed against Respondent. The sum of Twenty-Seven Thousand Dollars (\$27,000.00) was suspended from said civil penalty, contingent upon Respondent's compliance with the terms of the aforementioned Stipulation and Order of the Commissioner of Health, for a period of two years.

DATED: New York, New York
October 5, 1989



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

EXHIBIT "B"

TERMS OF PROBATION
OF THE REGENTS REVIEW COMMITTEE

MICHAEL JOHN OROFINO

CALENDAR NO. 10350

1. That respondent shall make quarterly visits to an employee of and selected by the Office of Professional Medical Conduct of the New York State Department of Health, unless said employee agrees otherwise as to said visits, for the purpose of determining whether respondent is in compliance with the following:
 - a. That respondent, during the period of probation, shall act in all ways in a manner befitting respondent's professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by respondent's profession;
 - b. That respondent shall submit himself for monitoring in regard to the use of drugs by a facility to be chosen by respondent and approved by the New York State Department of Health, after obtaining prior written approval by the New York State Department of Health, said facility to conduct an examination of respondent at least once every four months during the period of probation, at such times as said facility may choose, at respondent's expense, said examination to include urine samples for the detection of any drug in respondent. Respondent shall submit or cause to be submitted a written report from and signed by an authorized person from said facility, once every four months during the period of probation, in which said authorized person shall state whether the presence of any drug(s) has been detected by virtue of the said examination and shall also indicate the name of said drug(s). In the event any drug(s) is detected, the respondent shall submit a sworn affidavit explaining the use of said drug(s), as well as any other papers respondent wishes to submit in that regard. The said reports and affidavits, as well as any other papers, shall be forwarded to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid.

MICHAEL JOHN OROFINO (10350)

If any information is received by the New York State Department of Health indicating that respondent is not drug-free and/or not fit to practice his profession, such information shall be processed to the Board of Regents for its determination in a violation of probation proceeding initiated by the New York State Department of Health and/or such other proceedings pursuant to the Public Health Law, Education Law, and/or Rules of the Board of Regents;

- c. That respondent, during the first year of the period of probation has successfully performed 100 hours of public service to be selected by respondent and previously approved, in writing, by said employee;
- d. That respondent shall submit written notification to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Albany, NY 12234 of any employment and/or practice, respondent's residence, telephone number, or mailing address, and of any change in respondent's employment, practice, residence, telephone number, or mailing address within or without the State of New York;
- e. That respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that respondent has paid all registration fees due and owing to the NYSED and respondent 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 respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation; and
- f. That respondent shall submit written proof to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) respondent is currently registered with the NYSED, unless respondent submits written

MICHAEL JOHN OROFINO (10350)

proof to the New York State Department of Health, that respondent has advised DPLS, NYSED, that respondent is not engaging in the practice of respondent's profession in the State of New York and does not desire to register, and that 2) respondent has paid any fines which may have previously been imposed upon respondent 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;

2. That respondent shall only practice as a physician in a supervised setting under the supervision of a physician, said supervising physician to be selected by respondent and previously approved, in writing, by the Director of the Office of Professional Medical Conduct;
3. That, during the period of probation, respondent shall have respondent's practice monitored, at respondent's expense, as follows:
 - a. That said monitoring shall be by a physician selected by respondent and previously approved, in writing, by the Director of the Office of Professional Medical Conduct;
 - b. That respondent shall be subject to random selections and reviews by said monitor of respondent's patient records in regard to respondent's practice, and respondent shall also be required to make such records available to said monitor at any time requested by said monitor; and
 - c. That said monitor shall submit a report, once every four months, regarding the above-mentioned monitoring of respondent's practice to the Director of the Office of Professional Medical Conduct;
4. If the Director of the Office of Professional Medical Conduct determines that respondent may have violated probation, the Department of Health may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Public Health Law, Education Law, and/or Rules of the Board of Regents.



The University of the State of New York

IN THE MATTER

OF

MICHAEL JOHN OROFINO
(Physician)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 10350**

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 10350, and in accordance with the provisions of Title VIII of the Education Law, it was

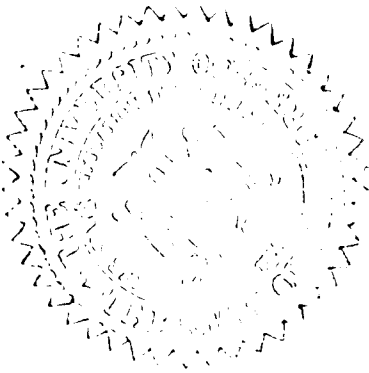
VOTED (March 23, 1990): That the record herein be accepted; that the findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed rendered by the Regents Review Committee in the matter of MICHAEL JOHN OROFINO, respondent, be accepted; that respondent is guilty of the charges by a preponderance of the evidence; that respondent's license and registration to practice as a physician in the State of New York be suspended for five years and respondent be required to perform 100 hours of public service upon each specification of the charges of which respondent has been found guilty, said suspensions to run concurrently and said public service to be imposed concurrently and to total 100 hours; that execution of said suspensions be stayed; that respondent be placed on probation for five years under the terms prescribed by the Regents Review Committee; 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;

and it is

MICHAEL JOHN OROFINO (10350)

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and SO ORDERED, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.



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 30th day of

March 1990.
Thomas Sobol
Commissioner of Education