

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

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IN THE MATTER : COMMISSIONER'S
OF : ORDER AND
ABAYOMI ORAFIDIYA, M.D. : NOTICE OF HEARING

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TO: Abayomi Orafidiya, M.D.
160 North Midland Avenue
Nyack, New York 10960

The undersigned, Barbara A. DeBuono, M.D., M.P.H., as Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct has determined that the continued practice of medicine in the State of New York by Abayomi Orafidiya, M.D., the Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law Section 230(12), that effective immediately Abayomi Orafidiya, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing

will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the day of _____, 1998 at _____ at _____ and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180 (518-402-0751), upon notice to the attorney for the Department of


Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW
YORK PUBLIC HEALTH LAW SECTION 230-a. YOU
ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT
YOU IN THIS MATTER.

DATED: Albany, New York

26 June, 1998


BARBARA A. DeBUONO, MD, MPH
Commissioner of Health

Inquiries should be directed to:

Cindy M. Fascia
Associate Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237-0032
(518) 473-4282

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

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IN THE MATTER : STATEMENT
 OF : OF
 ABAYOMI ORAFIDIYA, M.D. : CHARGES

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ABAYOMI ORAFIDIYA, M.D., the Respondent, was authorized to practice medicine in New York State on October 22, 1984 by the issuance of license number 160583 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine through December 31, 1998, with a registration address of 4 Rella Drive, New City, New York 10956.

FACTUAL ALLEGATIONS

- A. Respondent, on or about January 24, 1994, temporarily surrendered his license to practice medicine in New York State. Respondent, pursuant to a Restoration Order dated December 16, 1994, had his medical license restored subject to conditions set forth in said Order. Said conditions, unless otherwise specified in the Order, remain in effect for a period of probation lasting five (5) years from the effective date of the Order.
1. Respondent, pursuant to the Restoration Order, must be supervised in his medical practice by a licensed

physician [Supervisor] approved by the Office of Professional Medical Conduct [hereinafter OPMC]. Respondent is further required to obtain a successor Supervisor subject to the approval of OPMC within seven days of becoming aware that the original supervising physician will no longer serve in that capacity. Respondent has failed to comply with the required supervision in violation of the Restoration Order, in that:

- a) Respondent, at various times during the period of probation, practiced medicine without an approved Supervisor, and/or when he had not timely obtained a successor Supervisor after his Supervisor could no longer serve in that capacity.
2. Respondent, pursuant to the Restoration Order, must remain drug free from mood altering substances other than those prescribed for his treatment by a licensed physician aware of his history. Respondent is also not permitted to self-prescribe any medications. Respondent has failed to comply, in that:
- a) Respondent tested positive for morphine pursuant to a urine specimen collected on or about May 20, 1997.
 - b) Respondent tested positive for opiates pursuant to

a urine specimen collected on or about June 2, 1998.

c) Respondent, on various occasions, including but not limited to, on or about August 12, 1997 and/or October 6, 1997 and/or October 14, 1997 and/or February 5, 1998, submitted urine specimens which had abnormally low creatinine and/or specific gravity levels.

3. Respondent, pursuant to the Restoration Order, must not engage in the solo practice of medicine for a period of two years, after which period of time he may petition OPMC for reconsideration of this restriction. Respondent has failed to comply, in that:

a. Respondent, as of approximately March 20, 1995, was engaging in the solo practice of medicine at 9 Ingalls Street, Nyack, New York.

B. Respondent, on or about June 14, 1998, at St. Agnes Hospital, White Plains, New York [hereinafter "St. Agnes Hospital"] was employed as the per-diem in-house Pediatrician on call at said facility.

1. Respondent, during the time period that he was on call and required to provide coverage, left the premises of St. Agnes Hospital, when he was required to remain on site.

2. Respondent, during the time period that he was on call and required to provide coverage, failed to respond in a timely manner to beeper and/or pager messages and/or failed to timely attend to a newborn infant, Patient A. (Patients are identified in Appendix.)
 3. Respondent, during the time period that he was on call and required to provide coverage, left the premises of St. Agnes Hospital without providing reasonable notice of his absence and/or under circumstances which seriously impaired the delivery of professional care to patients.
- C. Respondent, subsequent to May 11, 1998, met with the Director of Pediatrics at St. Agnes Hospital, who also served as Respondent's practice monitor at St. Agnes Hospital.
1. Respondent told the Director of Pediatrics that Dr. Rifkinson, the neurosurgical attending on or about May 11, 1998, told Respondent that Patient B could tolerate p.o. intake and did not need to have her I.V. restarted, when in fact Dr. Rifkinson did not tell Respondent this, and Respondent knew such facts.

SPECIFICATION OF CHARGESFIRST THROUGH THIRD SPECIFICATIONS

VIOLATING A TERM OF PROBATION, CONDITION OR LIMITATION

Respondent is charged with professional misconduct by reason of violating a term of probation or a condition or limitation imposed on him pursuant to section two hundred thirty of the public health law, in violation of New York Education Law §6530(29) (McKinney Supp. 1997), in that Petitioner charges:

1. The facts in Paragraphs A and A.1(a).
2. The facts in Paragraphs A and A.2(a) and/or A.2(b), and/or A.2(c).
3. The facts in Paragraphs A and A.3(a).

FOURTH SPECIFICATION

ABANDONING OR NEGLECTING A PATIENT OR

ABANDONING A PROFESSIONAL EMPLOYMENT

Respondent is charged with professional misconduct by reason of his abandoning or neglecting a patient under and in need of immediate professional care without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients in violation of New York Education Law §6530(30), in that Petitioner charges:

4. The facts in Paragraphs B and B.1 and/or B.2 and/or B.3.

FIFTH SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with professional misconduct by reason of his practicing the profession with gross negligence on a particular occasion in violation of New York Education Law §6530(4), in that Petitioner charges:

5. The facts in Paragraphs B and B.1 and/or B.2.

SIXTH SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with professional misconduct by reason of his practicing medicine fraudulently, in that Petitioner charges:

6. The facts in Paragraphs D and D.1.

DATED: *June 26*, 1998
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct