

THE STATE EDUCATION DEPARTMENT / THE UNI.

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

Sheldon Stein, Physician
62 Albany Post Road
Hyde Park, N.Y. 12538

Re: License No. 134916

Dear Dr. Stein:

Enclosed please find Commissioner's Order No. 10141. 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

NYS DEPT. OF HEALTH
DIVISION OF LEGAL AFFAIRS
PROFESSIONAL MEDICAL CONDUCT

APR 27 1990

RECEIVED

DJK/MAH/er
Enclosures

CERTIFIED MAIL- RRR

cc: Nathan L. Dembin, Esq.
Bower & Gardner
110 E. 59th Street
N.Y.C., N.Y. 10022

RECEIVED

APR 19 1990

Office of Professional
Medical Conduct

**REPORT OF THE
REGENTS REVIEW COMMITTEE**

SHELDON STEIN

MEMORANDUM NO. 10141



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

SHELDON STEIN

No. 10141

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

REPORT OF THE REGENTS REVIEW COMMITTEE

SHELDON STEIN, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

The instant disciplinary proceeding was properly commenced and on May 20, July 18, July 22, July 25, August 3, August 26, September 16, September 23, and October 31, 1988, hearings were held before a hearing committee of the State Board for Professional Medical Conduct. A copy of the statement of charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

The statement of charges was amended during the hearing as set forth in petitioner's July 19, 1988 letter, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "B".

The statement of charges was further amended during the hearing as set forth in petitioner's November 1, 1988 letter, a

SHELDON STEIN (10141)

copy of which is annexed hereto, made a part hereof, and marked as Exhibit "C".

The hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which, without attachments, is annexed hereto, made a part hereof, and marked as Exhibit "D".

The hearing committee concluded that respondent was guilty of the second specification of the charges based on gross negligence, the ninth specification of the charges based on gross negligence and gross incompetence, the twenty-third specification of the charges based on gross negligence and gross incompetence, the twenty-fourth specification of the charges based on gross negligence and gross incompetence, specification 25a of the charges based on gross negligence and gross incompetence, the twenty-sixth specification of the charges based on negligence on more than one occasion and incompetence on more than one occasion to the extent indicated in the hearing committee report, and the twenty-seventh specification of the charges, and not guilty of the remaining charges. The eighth specification of the charges and paragraph C(4) of the charges were withdrawn. The hearing committee recommended that respondent's license to practice as a physician in the State of New York be revoked.

The Commissioner of Health recommended, in his June 30, 1989 recommendation, to the Board of Regents that the findings of fact and conclusions of the hearing committee be accepted. A copy of

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the June 30, 1989 recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "E".

The Commissioner of Health recommended, in his January 12, 1990 clarification to his June 30, 1989 recommendation, to the Board of Regents that the recommendation of the hearing committee be accepted. A copy of the January 12, 1990 clarification of the Commissioner of Health's June 30, 1989 recommendation is annexed hereto, made a part hereof, and marked as Exhibit "F".

On November 21, 1989 respondent appeared before us in person and was represented by his attorney, Nathan L. Dembin, Esq., who presented oral argument on behalf of respondent. E. Marta Sachey, Esq., presented oral argument on behalf of the Department of Health.

Petitioner's recommendation as to the measure of discipline 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 revoked.

Respondent's recommendation as to the measure of discipline to be imposed, should respondent be found guilty, was: "Focused and remedial training with specific curriculum designed to deal with problems identified under aegis of Downstate Medical Center for minimum 6 mo to 1 yr till demonstrated faculties satisfaction 2. period of physician monitoring for further evaluation of pattern of care 3. additional period of probation".

We have considered the record as transferred by the

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Commissioner of Health in this matter, as well as respondent's November 6, 1989 brief, petitioner's November 10, 1989 letter, the January 9, 1990 letter forwarded to the parties on our behalf, and the January 12, 1990 clarification of the June 30, 1989 recommendation of the Commissioner of Health with an attached January 17, 1990 cover letter.

We ruled that respondent's November 6, 1989 brief and petitioner's November 10, 1989 letter would be accepted into the record only in the nature of briefs, memoranda of law, and character references and not as new evidence in this case.

We also ruled, as a matter of discretion, to deny petitioner's request that a transcript be made of this proceeding. Transcripts are not required and are not normally made of Regents Review Committee proceedings concerning Health Department hearing committee cases.

We note that the June 30, 1989 recommendation of the Commissioner of Health did not contain any recommendation concerning the hearing committee's recommendation as to a measure of discipline as required by Public Health Law §230(10)(i). However, both petitioner and respondent argued before us that the Commissioner of Health had recommended revocation of respondent's license to practice as a physician in the State of New York. We gave each party a chance to submit a copy of such a recommendation. The Commissioner of Health subsequently submitted a clarification to his original recommendation, on notice to both parties herein,

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which we accepted into the record. The Commissioner of Health's clarification accepted the recommendation of the hearing committee calling for revocation of respondent's medical license.

We note that in arriving at the differing measures of discipline which we hereafter recommend, we have taken into account the following factors:

1. the relative youth of respondent at the time these incidents occurred, in that respondent had only been licensed as a physician between five to eight years during the time of these incidents and had only completed his residency in orthopedics three to six years prior to the various times of these incidents from 1983 to 1986;
2. the significant education and training respondent has taken to improve his skills since these incidents occurred; specifically, his work in orthopedics at Vassar Hospital in which he has performed over 500 orthopedic procedures without complaint under close scrutiny of auditing physicians, his participation in at least 191 hours of Category I Continuing Medical Education courses in various topics in orthopedics, his having earned 100 additional hours of Category I credit for participation in the Orthopedic Self-Assessment Examination and home study program, and his attendance at various conferences and seminars on topics in the practice of orthopedics;

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3. respondent's unblemished record since these incidents occurred;
4. the significant praise and favorable evaluation of respondent by physicians who have worked directly with him in treating patients, as evidenced by the numerous character reference letters submitted to us by these physicians;
5. the difficult medical nature of the cases involved in these charges; and
6. respondent's being found guilty of only seven out of 27 specifications of the charges.

While we do not unanimously agree upon the recommended measure of discipline, we do unanimously agree that revocation is not appropriate in this case as it overlooks both the difficult and close medical issues involved in the charges and the respondent's own circumstances and efforts to correct any deficiencies in his practice of orthopedics. Revocation, in our unanimous opinion, would be a regressive penalty, depriving this relatively young doctor, who has shown exceptional effort in striving to improve his medical skills in the area of orthopedics, from utilizing his significant skills to serve the public.

We unanimously recommend the following to the Board of Regents:

1. The hearing committee's 90 findings of fact and conclusions as to the question of respondent's guilt be

SHELDON STEIN (10141)

accepted, and the Commissioner of Health's recommendation as to the hearing committee's findings of fact and conclusions be accepted;

2. The hearing committee's and Commissioner of Health's recommendations as to the measure of discipline not be accepted;

3. Respondent be found guilty, by a preponderance of the evidence, of the second specification of the charges based on gross negligence, the ninth specification of the charges based on gross negligence and gross incompetence, the twenty-third specification of the charges based on gross negligence and gross incompetence, the twenty-fourth specification of the charges based on gross negligence and gross incompetence, specification 25a of the charges based on gross negligence and gross incompetence, the twenty-sixth specification of the charges based on negligence on more than one occasion and incompetence on more than one occasion to the extent indicated in the hearing committee report, and the twenty-seventh specification of the charges, and not guilty of the remaining charges.

By a vote of two to one Simon J. Liebowitz, Esq., and Robert J. Mangum, Esq., recommend, in light of the preponderant mitigating circumstances previously described herein, the following to the Board of Regents:

SHELDON STEIN (10141)

4. That respondent be Censured and Reprimanded upon each specification of the charges of which we recommend respondent be found guilty, and respondent be placed on probation for two years under the terms set forth in the exhibit annexed hereto, made a part hereof, and marked as Exhibit "G", said terms to include monitoring of respondent's practice of orthopedics and continuing education in orthopedics and patient management.

The undersigned dissents with regard to the measure of discipline and, taking a more serious view of the actual misconduct while still acknowledging the significance of the mitigating factors previously described herein, recommends the following to the Board of Regents:

That respondent's license to practice as a physician in the State of New York be suspended for two years upon each specification of the charges of which we recommend respondent be found guilty, said suspensions to run concurrently, that execution of said suspensions be stayed and respondent be placed on probation for two years under the terms set forth in the exhibit annexed hereto, made a part hereof, and marked as Exhibit "G", said terms to include monitoring of respondent's practice of orthopedics and continuing education in orthopedics and patient management.

SHELDON STEIN (10141)

Respectfully submitted,

LAURA BRADLEY CHODOS

SIMON J. LIEBOWITZ

ROBERT J. MANGUM


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
SHELDON STEIN, M.D. : CHARGES

-----X

SHELDON STEIN, M.D., the Respondent, was authorized to practice medicine in New York State on July 1, 1978 by the issuance of License Number 134916 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, 1986 through December 31, 1988 at 62 Albany Post Road, Hyde Park, New York 12538.

FACTUAL ALLEGATIONS

A. Respondent, on or about January 3, 1983 and at various times through August, 1986, provided medical care to Patient A [Patients denominated by letters are identified in Appendix A] for treatment of her left lower leg and ankle.

1. Respondent, on or about July 7, 1986 at Vassar Brothers Hospital, Poughkeepsie, New York, removed a bone fragment from the distal end of Patient A's left leg, which was not indicated.
2. Respondent maintained records of Patient A's visits to his office at 62 Albany Post

Road, Hyde Park, New York, which did not accurately reflect the evaluation and/or treatment of the Patient.

B. Respondent, on or about November 27, 1984 and at various times through February 22, 1985 provided medical care to Patient B for treatment of her right ankle.

1. Respondent, on or about November 27, 1984, at Northern Dutchess Hospital, Rhinebeck, New York, performed an inadequate internal fixation of a fracture of the lateral malleolus of Patient B's right ankle, in that:
 - a. Respondent inserted a fixation plate which was too thick on the lateral malleolus.
 - b. Respondent did not properly affix the fixation plate to the lateral malleolus.

C. Respondent, on or about July 23, 1983 and at various times through March, 1986, provided medical care to Patient C for treatment of her left forearm.

1. Respondent, on or about August 1, 1983, at Northern Dutchess Hospital, Rhinebeck, New York, performed inadequate internal fixations of fractures of Patient B's left radius and ulna, in that:
 - a. Respondent inserted fixation plates on the radius and ulna which were too short and which did not have enough screws.
 - b. Respondent used fixation plates on the radius and ulna which were too thick.
2. Respondent, on or about March 28, 1985, at Northern Dutchess Hospital, Rhinebeck, New York, replaced the fixation plate on Patient C's left ulna with a plate which

was too short and which did not have enough screws.

3. Respondent, in the aforesaid procedure of March 28, 1985, inserted a bone graft in the left ulna which was too small.
4. Respondent, in the aforesaid procedure of March 28, 1985, used a fixation plate which was too thick on the ulna.
5. Respondent, on or about March ²⁷2, 1986, when he saw Patient C at his offices at 62 Albany Post Road, Hyde Park, New York, failed to arrange with the Patient for a timely follow-up visit concerning the status of the Patient's left forearm.

D. Respondent, on or about July 7, 1983 and at various times through August 11, 1983 provided medical care to Patient D for treatment of her right upper arm.

1. Respondent, on or about July 7, 1983 at Northern Dutchess Hospital, Rhinebeck, New York, performed an inadequate open reduction and internal fixation of a fracture of Patient D's right distal humerus, in that:
 - a. Respondent inserted a fixation plate which was too short.
 - b. Respondent did not adequately fix the butterfly fragment and distal fragment of the fracture.
 - c. Respondent did not perform a bone graft, which was indicated.
2. Respondent, on or about July 24, 1983 at Northern Dutchess Hospital, Rhinebeck, New York, performed an inadequate fixation and revision of the fixation hardware of Patient D's right distal humerus, in that:
 - a. Respondent did not adequately fix the butterfly fragment and the distal fragment of the fracture.

- b. Respondent did not replace the previously inserted fixation plate, which was too short, with a plate of appropriate size.
- c. Respondent did not perform a bone graft, which was indicated.

E. Respondent, on or about February 6, 1986 and at various times through April 20, 1986, provided medical care to Patient E for treatment of her right ankle.

- 1. Respondent, on or about February 6, 1986, at Northern Dutchess Hospital, Rhinebeck, New York, performed an inadequate open reduction and internal fixation of a fracture of Patient D's right ankle, in that:
 - a. Respondent did not adequately reduce the fibular fracture.
 - b. Respondent inserted a fixation plate which was too short and which did not have enough screws.
 - c. Respondent did not adequately reduce the posterior malleolus of the tibia, which was necessary to prevent subluxation of the ankle.
 - d. Respondent reported in his operative report of the aforesaid February 6, 1986 procedure that after the procedure Patient D's ankle was stable, which was without basis.
- 2. Respondent, on or about March 11, 1986, at Northern Dutchess Hospital, Rhinebeck, New York, inadequately revised the fixation and hardware he had performed in the operative procedure of February 6, 1986, and performed an inadequate open reduction and internal fixation of the posterior malleolus of Patient E's right ankle, in that:
 - a. Respondent used a malleolar screw with a threaded portion which was too

long to affix the posterior malleolus, which was inappropriate.

- b. Respondent failed to reduce the fibular fracture.

F. Respondent, on or about June 1, 1984 and at various times through June 20, 1984, provided medical care to Patient F for treatment of a fracture of her right hip.

1. Respondent, on or about June 5, 1984, at Northern Dutchess Hospital, Rhinebeck, New York, performed a hemiarthroplasty of the Patient's right hip, which was not indicated.

G. Respondent, on or about March 21, 1985, and at various times through November 26, 1985, provided medical care to Patient G for treatment of an injury to her left wrist.

1. Respondent, on or about October 11, 1985, at Northern Dutchess Hospital, Rhinebeck, New York, while performing a repair of the left radial ulnar joint, transected Patient G's left ulnar nerve.
2. Respondent, in the aforesaid procedure, used a portion of Patient G's ulnar nerve to repair the left radial ulnar joint.

FIRST THROUGH TWENTY-FOURTH SPECIFICATIONS

PRACTICING WITH GROSS NEGLIGENCE

AND/OR GROSS INCOMPETENCE

Respondent is charged with practicing the profession of medicine with gross negligence and/or gross incompetence under

N.Y. Educ. Law §6509(2) (McKinney 1985) in that the State Board for Professional Medical Conduct [hereinafter referred to as "Petitioner"] alleges:

1. The facts in Paragraphs A and A.1.
2. The facts in Paragraphs B and B.1(a).
3. The facts in Paragraphs B and B.1(b).
4. The facts in Paragraphs C and C.1(a).
5. The facts in Paragraphs C and C.1(b).
6. The facts in Paragraphs C and C.2.
7. The facts in Paragraphs C and C.3.
8. The facts in Paragraphs C and C.4.
9. The facts in Paragraphs C and C.5.
10. The facts in Paragraphs D and D.1(a).
11. The facts in Paragraphs D and D.1(b).
12. The facts in Paragraphs D and D.1(c).
13. The facts in Paragraphs D and D.2(a).
14. The facts in Paragraphs D and D.2(b).
15. The facts in Paragraphs D and D.2(c).
16. The facts in Paragraphs E and E.1(a).
17. The facts in Paragraphs E and E.1(b).
18. The facts in Paragraphs E and E.1(c).
19. The facts in Paragraphs E and E.1(d).
20. The facts in Paragraphs E and E.2(a).
21. The facts in Paragraphs E and E.2(b).

- 22. The facts in Paragraphs F and F.1.
- 23. The facts in Paragraphs G and G.1.
- 24. The facts in Paragraphs G and G.2.

TWENTY-FIFTH SPECIFICATION

PRACTICING WITH NEGLIGENCE
AND/OR INCOMPETENCE ON
MORE THAN ONE OCCASION

Respondent is charged with practicing the profession of medicine with negligence and/or incompetence on more than one occasion under N.Y. Educ. Law §6509(2) (McKinney 1985) in that Petitioner alleges:

- 25. The facts in Paragraphs A and A.1, and B and B.1(a), B.1(b), C and C.1(a), C.1(b), C.2, C.3, C.4, C.5, and D and D.1(a), D.1(b), D.1(c), D.2(a), D.2(b), D.2(c), and E and E.1(a), E.1(b), E.1(c), E.1(d), E.2(a), E.2(b), and F and F.1, and/or G and G.1 and G.2.

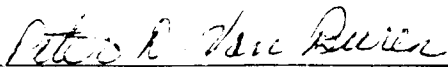
TWENTY-SIXTH SPECIFICATION

FAILING TO MAINTAIN ADEQUATE RECORDS

Respondent is charged with committing unprofessional conduct under N.Y. Educ. Law §6509(9) (McKinney 1985) in that Respondent failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient within the meaning of 8 NYCRR §29.2(a)(3) (1987), in that Petitioner alleges:

26. The facts in Paragraphs A and A.2.

DATED: Albany, New York
March 30, 1988



PETER D. VAN BUREN
Deputy Counsel

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

IN THE MATTER :
OF : COMMISSIONER'S
SHELDON STEIN, M.D. : RECOMMENDATION

TO: Board of Regents
New York State Education Department
State Education Building
Albany, New York

A hearing in the above-entitled proceeding was held on May 20, July 18, 22, 25, August 3, 26, September 16, 23 and October 31, 1988. Respondent Sheldon Stein, M.D., appeared by Wood & Scher, Esqs., William L. Wood, Jr., Esq., of Counsel. The evidence in support of the charges against the Respondent was presented by E. Marta Sachey, Esq.

NOW, on reading and filing the transcript of the hearing, the exhibits and other evidence, and the findings, conclusions and recommendation of the Committee,

I hereby make the following recommendation to the Board of Regents:


A. The Findings of Fact and Conclusions of the Committee should be accepted in full;

B. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions.

The entire record of the within proceeding is transmitted with this Recommendation.

Dated: Albany, New York

June 30 , 1989


DAVID AXELROD, M.D.
Commissioner of Health
State of New York

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

-----X

IN THE MATTER : COMMISSIONER'S
OF : CLARIFICATION
SHELDON STEIN, M.D. : OF JUNE 30, 1989
: RECOMMENDATION

-----X

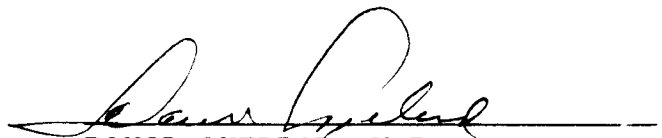
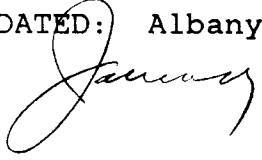
TO: Board of Regents
New York State Education Department
State Education Building
Albany, New York

I hereby make the following clarifying additions to my
June 30, 1989 Recommendation to the Board of Regents, which shall
be deemed incorporated in said Recommendation:

- C. The Recommendation of the Committee should be accepted in full.
- D. The Board of Regents should issue an order adopting and incorporating as its determination the Recommendation of the Committee.

This Clarification of Recommendation is herewith
transmitted to those designated below.

DATED: Albany, New York
January 12, 1990



DAVID AXELROD, M.D.
Commissioner of Health
State of New York

Board of Regents
New York State Education Department
Office of Professional Discipline
One Park Avenue
New York, New York 10016-5802
ATT: Lance R. Plunkett
Legal Services Division

EXHIBIT F

Nathan L. Dembin, Esq.
Bower & Gardner
110 East 59th Street
New York, New York 10022

E. Marta Sachey, Esq.
New York State Department of Health
Corning Tower Buidling, 24th Floor
Empire State Plaza
Albany, New York 12237

EXHIBIT "G"

TERMS OF PROBATION
OF THE REGENTS REVIEW COMMITTEE

SHELDON STEIN

CALENDAR NO. 10141

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 conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession;
 - b. That respondent is, at respondent's expense, enrolled in and diligently pursuing continuing medical education courses in orthopedics and patient management to maintain and update respondent's knowledge thereof, said courses to be selected by respondent and previously approved, in writing, by the Director of the Office of Professional Medical Conduct, said courses to be at least one year in duration, and respondent must complete said courses during the period of probation;
 - c. 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;
 - d. 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;
 - e. 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 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 during the period of probation, 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 and hospital charts in regard to respondent's practice of orthopedics, 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 of orthopedics to the Director of the Office of Professional Medical Conduct;
3. 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.



The University of the State of New York

IN THE MATTER

OF

SHELDON STEIN
(Physician)

ORIGINAL
VOTE AND ORDER
NO. 10141

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 10141, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (March 23, 1990): That, in the matter of SHELDON STEIN, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The hearing committee's 90 findings of fact and conclusions as to the question of respondent's guilt be accepted, and the Commissioner of Health's recommendation as to the hearing committee's findings of fact and conclusions be accepted;
2. Respondent is guilty, by a preponderance of the evidence, of the second specification of the charges based on gross negligence, the ninth specification of the charges based on gross negligence and gross incompetence, the twenty-third specification of the charges based on gross negligence and gross incompetence, the twenty-fourth specification of the charges based on gross negligence and gross incompetence, specification 25a of the charges based on gross negligence and gross incompetence, the twenty-sixth specification of the charges based on negligence on more than one occasion and incompetence on

more than one occasion to the extent indicated in the hearing committee report, and the twenty-seventh specification of the charges, and not guilty of the remaining charges;

that the recommendation of the Regents Review Committee be modified as to the measure of discipline and, based upon the serious nature of the misconduct committed and in agreement with the hearing committee and Commissioner of Health, respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which respondent is found guilty; 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;

and it is

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

