

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

October 31, 1990

Ira N. Weiner, Physician
Professional Center
3520 West Genesee Street
Syracuse, N.Y. 13219

Re: License No. 074107

Dear Dr. Weiner:

Enclosed please find Commissioner's Order No. 10958. 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 in your case is a revocation or a surrender of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. 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.

You may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after one year has elapsed from the effective date of the Order and the penalty; but said application is not granted automatically.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By:

GUSTAVE MARTINE
Supervisor

DJK/GM/er
Enclosures

CERTIFIED MAIL- RRR

cc: Jeffrey Rettan, Esq.
229 Post Avenue, P.O. Box 125
Westbury, N.Y. 11590

RECEIVED

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Office of Professional
Medical Conduct

**REPORT OF THE
REGENTS REVIEW COMMITTEE**

IRA N. WEINER

CALENDAR NO. 10958



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

IRA N. WEINER

No. 10958

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

REPORT OF THE REGENTS REVIEW COMMITTEE

IRA N. WEINER, 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. A copy of the amended statement of charges is annexed hereto, made a part hereof, and marked as Exhibit "A". The charges were amended to conform the charges to the proof.

Between June 7, 1989 and August 24, 1989 a hearing was held in three sessions before a hearing committee of the State Board for Professional Medical Conduct. The hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which, is annexed hereto, made a part hereof, and marked as Exhibit "B". On March 6, 1990, the hearing committee found and concluded that respondent was guilty of the thirty-first through sixty-second

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specifications, and not guilty of the remaining specifications and charges, and recommended that respondent's license to practice as a physician in the State of New York be revoked.

On April 26, 1990, the Commissioner of Health recommended to the Board of Regents that the findings, conclusions, and recommendation of the hearing committee be accepted in full. We note that the record shows the date for the transmission of the file to the Commissioner of Health to be April 27, 1990. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "C".

On August 10, 1990, respondent appeared before us and was represented by Jeffrey Bettan, Esq. Kevin C. Roe, Esq. presented oral argument on behalf of the Department of Health.

We have considered the record in this matter as transferred by the Commissioner of Health.

Petitioner's recommendation as to the measure of discipline to be imposed, should respondent be found guilty, which is the same as the recommendation of the Commissioner of Health, 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 "a period of probation". In his April 4, 1990 proposed recommendations,

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respondent's attorney indicated that monitoring would be acceptable as part of the probation.

The scheduled meeting of the Regents Review Committee in this matter was adjourned, at the request of respondent's attorney, both on June 27, 1990 and July 10, 1990. On July 25, 1990, respondent's attorney sought the issuance by the Supreme Court of a temporary restraining order staying, enjoining, and restraining any further disciplinary proceeding in this matter. In signing the Order to Show Cause in the Article 78 proceeding, the Supreme Court struck that requested restraining order from the Order to Show Cause and, therefore, did not grant such relief. Accordingly, our meeting in this matter was not stayed, enjoined, or restrained. Nevertheless, respondent's attorney applied to us for a "postponement" until the Court issues its determination in the Article 78 proceeding. We denied respondent's application and proceeded without further delay.

We agree with the hearing committee that respondent is guilty of gross incompetence, incompetence on more than one occasion, and negligence on more than one occasion. These charges pertain to numerous occasions involving 30 patients over a period of years as shown in the report of the hearing committee. The hearing committee found respondent's long-standing pattern of practice to be based on "woefully inadequate knowledge". Respondent dispensed medications without medical indication. He also dispensed

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medications in combination despite contraindications for such combinations and, in the cases of Patients B, P, T, BB, and DD, despite other medical conditions. Further, for all 30 patients, respondent failed to perform an adequate physical examination and appropriate laboratory profiles; failed to perform or order thyroid function tests prior to dispensing thyroid extract and during the course of treatment; and failed to provide appropriate dietary counseling.

Respondent's attorney contended that petitioner's expert did not know, at the time he conducted his review of respondent's records, information about the medications respondent prescribed for weight reduction and that such lack of knowledge prevented petitioner's expert from possessing "a vital proponent necessary to properly analyze the records of the patients in question. We disagree.

Petitioner's expert was aware of the medications respondent dispensed to one patient. The pattern of respondent's practices regarding these dangerous medications was common to all 30 patients reviewed by petitioner's expert. At the time petitioner's expert conducted his review regarding various patients, he was aware that he could not decipher the symbols respondent used in his records. Nevertheless, petitioner's expert "understood" that the records showed that diet patients were receiving thyroid medications and diet pills. He was able to synthesize the hospital records,

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autopsy records, and charts he was asked to review. Petitioner's expert testified that he could render an opinion on the issues at stake without the necessity of knowing the strengths and dosages of the medications that were dispensed. Such information was not necessarily significant for being able to render that opinion. In our unanimous opinion, the appropriateness of the strengths and dosages used is not relevant to the issues on which petitioner's expert testified. Accordingly, petitioner's expert possessed sufficient information and knowledge to properly analyze the records of the patients in question.

With respect to the charge in paragraph B.6 of the amended statement of charges involving the dispensing or prescribing of phentermine for extended periods, the hearing committee found (finding 40) that the use of phentermine for more than a few weeks duration is medically unjustified. In the cases of Patients A, M, and Z, the hearing committee's findings show phentermine was dispensed to these patients on only one occasion. Therefore, we conclude that respondent is not guilty of the charges concerning paragraph B.6. to the extent such charge applies to Patients A, M, and Z.

With respect to the charges in paragraph E, respondent contends that there was no evidence connecting the treatment Patient AA received with the medical history she displayed. The hearing committee's finding of fact 44, that the use of thyroid

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extract and phentermine is contraindicated in patients with a psychiatric history, refers to page 46 of the transcript and Department Exhibit 39 for evidentiary support. However, the testimony cited does not specifically refer to Patient AA or connect her treatment with her specific medical history. The exhibit cited also does not show that respondent's treatment of Patient AA failed to meet acceptable standards in that these medications were dispensed or prescribed despite a psychiatric history. In Exhibit 39, petitioner's expert merely stated that "one would have to wonder" in regard to the use of phentermine and it was "assumed" that the patient was being made metabolically overactive in regard to the use of thyroid extract. Therefore, we conclude that respondent is not guilty of the charges concerning paragraph E.

We find the remaining conclusions of the hearing committee to be adequately supported by the record and to be correct. The only witnesses to testify at the hearing were respondent and an expert on behalf of petitioner.

Based on the seriousness and repeated dangerous pattern of professional misconduct, we agree with the hearing committee that the appropriate measure of discipline to be imposed is the revocation of respondent's license to practice as a physician in the State of New York. In spite of respondent's use of thyroid extract for weight control and reduction for approximately 20

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years, respondent was grossly incompetent in his knowledge of thyroid gland functioning and modern diagnostic laboratory procedures. He was not aware of the contraindications for medications used on many patients.

We note that respondent claimed in his April 4, 1990 recommendations that, "should the Board of Regents recommend following the recommendations of the Hearing Committee, respondent will voluntarily cease to prescribe phentermine and thyroid extract in combination." Such offer does not change the professional misconduct respondent has committed or, in view of the circumstances, mitigate the penalty we recommend. Respondent has not shown that he substantially modified his practice before the hearing committee made its recommendation. In any event, as petitioner maintained, respondent is grossly incompetent in the area in which he has chosen to practice. Revocation is also warranted in view of the extent of the negligence respondent has committed.

We unanimously recommend the following to the Board of Regents:

1. The findings of fact of the hearing committee be accepted and therefore the recommendation of the Commissioner of Health as to those findings of fact, being in agreement with the hearing committee, also be accepted;

2. The conclusions of the hearing committee be accepted, except the conclusions of the hearing committee as to the thirty-first, forty-third, fifty-sixth, sixty-first, and sixty-second specifications insofar as they relate to paragraph B.6. of the charges and as to the fifty-seventh, sixty-first, and sixty-second specifications insofar as they relate to paragraph E not be accepted; and therefore the recommendation of the Commissioner of Health as to those conclusions, being in agreement with the hearing committee, be accepted to the extent we accept the conclusions of the hearing committee;
3. Respondent is guilty, by a preponderance of the evidence, of the thirty-second through forty-second, forty-fourth through fifty-fifth, and fifty-eighth through sixtieth specifications, guilty of the thirty-first, forty-third, fifty-sixth, fifty-seventh, sixty-first and sixty-second specifications, except to the extent such specifications relate to paragraphs B.6. and E, and not guilty of the remaining specifications and charges;
4. The measure of discipline recommended by the hearing committee be accepted and therefore the recommendation of the Commissioner of Health, being in agreement with the hearing committee, also be accepted and respondent's license to practice as a physician in the State of New

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York be revoked upon each specification of the charges of which we recommend respondent be found guilty, as aforesaid.

Respectfully submitted,

JORGE L. BATISTA

HERBERT BERNETTE EVANS

GEORGE POSTEL



Chairperson

Dated:

9/17/90

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

-----X
IN THE MATTER : AMENDED
OF : STATEMENT OF
IRA N. WEINER, D.O. : CHARGES
-----X

IRA N. WEINER, D.O., the Respondent, was authorized to practice medicine in New York State on August 10, 1953 by the issuance of license number 074107 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 3520 West Genesee Street, Syracuse, New York 13219.

:FACTUAL ALLEGATIONS

A. Respondent treated the following patients (Patients are identified in Appendix A attached hereto) for weight control and reduction at his office:

<u>Patient</u>	<u>From</u>	<u>To</u>
1. Patient A	01/11/88	02/10/88
2. Patient B	10/15/82	02/09/88
3. Patient C	06/25/83	01/22/88

EXHIBIT 1A

Dep'ts. # 1-A
received in evidence 7/28/87
LSE

4. Patient D	05/07/85	02/21/88
5. Patient E	03/04/87	01/25/88
6. Patient F	06/11/85	02/02/88
7. Patient G	08/03/83	02/09/88
8. Patient H	01/18/80	02/02/88
9. Patient I	11/16/84	01/26/88
10. Patient J	09/03/86	01/26/88
11. Patient K	05/15/82	02/10/88
12. Patient L	01/29/85	02/03/88
13. Patient M	08/26/87	02/12/88
14. Patient N	05/02/83	02/09/88
15. Patient O	10/26/84	01/26/88
16. Patient P	12/01/78	01/26/88
17. Patient Q	09/30/80	01/29/88
18. Patient R	03/05/86	02/03/88
19. Patient S	10/25/85	02/03/88
20. Patient T	11/18/86	02/09/88
21. Patient U	07/21/86	01/26/88
22. Patient V	04/17/87	01/25/88
23. Patient W	04/06/84	02/09/88
24. Patient X	03/03/87	02/09/88
25. Patient Y	03/10/87	02/03/88
26. Patient Z	10/25/87	01/16/88
27. Patient AA	06/26/87	09/18/87
28. Patient BB	10/19/82	09/02/87
29. Patient CC	07/06/87	08/27/87
30. Patient DD	07/08/86	09/09/88

B. Respondent's treatment of Patients A through DD failed to meet acceptable medical standards in that:

1. Respondent failed to perform an adequate physical examination.
2. Respondent failed to perform or order appropriate laboratory profiles.
3. Respondent failed to perform or order thyroid function tests prior to the dispensing of thyroid extract.
4. Respondent failed to perform or order periodic thyroid function tests during the course of treatment.
5. Respondent dispensed or prescribed thyroid extract without medical indication.

6. Respondent dispensed or prescribed phentermine for extended periods of time without medical indication.
7. Respondent dispensed or prescribed thyroid extract and phentermine together despite contraindication.
8. Respondent failed to provide appropriate dietary counseling.

C. Respondent's treatment of Patients B, P, T and BB failed to meet acceptable medical standards in that Respondent dispensed or prescribed thyroid extract and Phentermine despite hypertension.

D. Respondent's treatment of Patient DD failed to meet acceptable medical standards in that Respondent dispensed or prescribed thyroid extract and phentermine despite a history of mitral valve prolapse.

E. Respondent's treatment of Patient AA failed to meet acceptable medical standards in that Respondent dispensed or prescribed thyroid extract and phentermine despite a psychiatric history.

SPECIFICATIONS

FIRST THROUGH THIRTIETH SPECIFICATIONS

The Respondent is charged with practicing the profession with gross negligence under N.Y. Educ. Law §6509 (2) (McKinney 1985), in that, Petitioner charges:

1. The facts in paragraphs A.1 and B.1 through B.8.
2. The facts in paragraphs A.2, B.1 through B.8 and C.
3. The facts in paragraphs A.3 and B.1 through B.8.
4. The facts in paragraphs A.4 and B.1 through B.8.
5. The facts in paragraphs A.5 and B.1 through B.8.
6. The facts in paragraphs A.6 and B.1 through B.8.
7. The facts in paragraphs A.7 and B.1 through B.8.
8. The facts in paragraphs A.8 and B.1 through B.8.
9. The facts in paragraphs A.9 and B.1 through B.8.
10. The facts in paragraphs A.10 and B.1 through B.8.
11. The facts in paragraphs A.11 and B.1 through B.8.
12. The facts in paragraphs A.12 and B.1 through B.8.
13. The facts in paragraphs A.13 and B.1 through B.8.
14. The facts in paragraphs A.14 and B.1 through B.8.
15. The facts in paragraphs A.15 and B.1 through B.8.
16. The facts in paragraphs A.16, B.1 through B.8 and C.
17. The facts in paragraphs A.17 and B.1 through B.8.
18. The facts in paragraphs A.18 and B.1 through B.8.
19. The facts in paragraphs A.19 and B.1 through B.8.
20. The facts in paragraphs A.20, B.1 through B.8 and C.
21. The facts in paragraphs A.21 and B.1 through B.8.
22. The facts in paragraphs A.22 and B.1 through B.8.
23. The facts in paragraphs A.23 and B.1 through B.8.
24. The facts in paragraphs A.24 and B.1 through B.8.
25. The facts in paragraphs A.25 and B.1 through B.8.

26. The facts in paragraphs A.26 and B.1 through B.8.
27. The facts in paragraphs A.27, B.1 through B.8 and E.
28. The facts in paragraphs A.28, B.1 through B.8 and C.
29. The facts in paragraphs A.29 and B.1 through B.8.
30. The facts in paragraphs A.30, B.1 through B.8 and D.

THIRTY-FIRST THROUGH SIXTIETH SPECIFICATIONS

Respondent is charged with professional misconduct by practicing the profession with gross incompetence under N.Y. Educ. Law §6509(2) (McKinney 1985) in that, Petitioner charges:

31. The facts in paragraphs A.1 and B.1 through B.8.
32. The facts in paragraphs A.2, B.1 through B.8 and C.
33. The facts in paragraphs A.3 and B.1 through B.8.
34. The facts in paragraphs A.4 and B.1 through B.8.
35. The facts in paragraphs A.5 and B.1 through B.8.
36. The facts in paragraphs A.6 and B.1 through B.8.
37. The facts in paragraphs A.7 and B.1 through B.8.
38. The facts in paragraphs A.8 and B.1 through B.8.
39. The facts in paragraphs A.9 and B.1 through B.8.
40. The facts in paragraphs A.10 and B.1 through B.8.
41. The facts in paragraphs A.11 and B.1 through B.8.
42. The facts in paragraphs A.12 and B.1 through B.8.
43. The facts in paragraphs A.13 and B.1 through B.8.
44. The facts in paragraphs A.14 and B.1 through B.8.
45. The facts in paragraphs A.15 and B.1 through B.8.
46. The facts in paragraphs A.16, B.1 through B.8 and C.

47. The facts in paragraphs A.17 and B.1 through B.8.
48. The facts in paragraphs A.18 and B.1 through B.8.
49. The facts in paragraphs A.19 and B.1 through B.8.
50. The facts in paragraphs A.20, B.1 through B.8 and C.
51. The facts in paragraphs A.21 and B.1 through B.8.
52. The facts in paragraphs A.22 and B.1 through B.8.
53. The facts in paragraphs A.23 and B.1 through B.8.
54. The facts in paragraphs A.24 and B.1 through B.8.
55. The facts in paragraphs A.25 and B.1 through B.8.
56. The facts in paragraphs A.26 and B.1 through B.8.
57. The facts in paragraphs A.27, B.1 through B.8 and E.
58. The facts in paragraphs A.28, B.1 through B.8 and C.
59. The facts in paragraphs A.29 and B.1 through B.8.
60. The facts in paragraphs A.30, B.1 through B.8 and D.

SIXTY-FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of practicing the profession with negligence on more than one occasion under N.Y. Educ. Law §6509(2) (McKinney 1985) in that, Petitioner charges that the Respondent committed two or more of the following:


61. Petitioner repeats and realleges the facts in Specifications One through Thirty each as an instance of negligence.

SIXTY-SECOND SPECIFICATION

Respondent is charged with professional misconduct by reason of practicing the profession with incompetence on more than one occasion under N.Y. Educ. Law §6509(2) in that, Petitioner charges that Respondent committed two or more of the following:

62. Petitioner repeats and realleges the facts under Specifications Thirty-one through Sixty each as an instance of incompetence.

DATED: Albany, New York
September 18, 1989



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

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

-----X
IN THE MATTER :
OF :
IRA N. WEINER, D.O. :
: REPORT OF
: THE HEARING
: COMMITTEE
: :
-----X

TO: The Honorable David Axelrod, M.D.
Commissioner of Health, State of New York

GEORGE F. COUPERTHWAIT (Chair), MARTIN DIAMOND, D.O.
and DANIEL A. SHERBER, M.D., duly designated members of the
State Board for Professional Medical Conduct, appointed by the
Commissioner of Health of the State of New York pursuant to
Section 230(1) of the Public Health law, served as the Hearing
Committee in this matter pursuant to Section 230(10)(e) of the
Public Health Law. Larry G. Storch, Esq., served as the
Administrative Officer for the Hearing Committee. Michael P.
McDermott, Esq. and Jonathan M. Brandes, Esq. served as
substitute Administrative Officers.

After consideration of the entire record, the Hearing
Committee submits this report.

SUMMARY OF PROCEEDINGS

Date of Service of Notice of
Hearing and Statement of
Charges against Respondent: March 24, 1989

Date of Receipt of Amended
Statement of Charges: September 28, 1989

Answer to Statement of Charges: None

Pre Hearing Conference: June 7, 1989

Dates and Places of Hearings: June 7, 1989
99 Washington Avenue
Albany, New York

July 5, 1989
Meeting Room 5
Concourse - South Mall
Empire State Plaza
Albany, New York

August 24, 1989
Corning Tower Building
Room 1432
Empire State Plaza
Albany, New York

Adjournments: April 26, 1989
(Granted on April 18,
1989; Respondent's Counsel
recently retained)

Received Petitioner's Proposed
Findings of Fact and
Conclusions of Law: October 4, 1989

Received Respondent's Proposed
Findings of Fact and
Conclusions of Law: October 4, 1989

Final Deliberations: October 11, 1989

Department of Health
approved by:

Kevin C. Roe, Esq.
Associate Counsel

Respondent appeared by:

Jeffrey Bettan, Esq.
P.O. Box 125
229 Post Avenue
Westbury, New York 11590

Witnesses for Department
of Health:

Theodore H. Zeltner, M.D.

Witnesses for Respondent:

Ira N. Wiener, D.O.

STATEMENT OF CASE

The Department's charges allege, in substance, that Respondent practiced medicine with gross negligence and incompetence, as well as negligence and incompetence on more than one occasion, with respect to thirty patients treated by Respondent for weight control and reduction.

FINDINGS OF FACTS

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. Respondent treated Patients A-DD for weight control and reduction at his office located at 3520 West Genesee Street, Syracuse, New York. (26, 261)

2. Respondent treated Patient A on January 11, 1988 and January 25, 1988. Respondent dispensed phentermine and thyroid extract in combination to Patient A at the initial office visit. No physical examination was recorded other than blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 4)

3. Patient B was treated from October 15, 1982 until February 9, 1988. Respondent dispensed phentermine and thyroid extract in combination to Patient B continuously throughout the 5 1/2 year course of treatment. No physical examination was recorded except for blood pressures, pulse, weight and body measurements. Patient B's blood pressure was consistently elevated during the course of treatment, ranging from mild to moderate hypertension. No laboratory profiles were obtained and no thyroid function tests were done. (52-53; Dept. Ex. 3, Dept. Ex. 5)

4. Respondent treated Patient C from June 25, 1983 to January 22, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient C on June 25, 1983, May 15, 1985, June 12, 1985, July 17, 1985, September 11, 1985, October 11, 1985, November 6, 1985, December 7, 1985, January 4, 1986, January 31, 1986, March 7, 1986, August 1, 1986, August 29, 1986, October 3, 1986, October 28, 1986, November 25, 1986, February 27, 1987, March 27, 1987, April 24, 1987, May 20, 1987, July 15, 1987 and August 14, 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 6)

5. Respondent treated Patient D from May 7, 1985 to February 21, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient D for one month in 1985 and three continuous months in 1986. No physical examination was performed except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 7)

6. Respondent treated Patient E from March 4, 1987 to January 25, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient E continuously for six

months in 1987. No physical examination was performed except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 8)

7. Respondent treated Patient F from June 11, 1985 to February 2, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient F continuously throughout the first 2 1/2 years of treatment. No physical examination was performed except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 9)

8. Respondent treated Patient G from August 3, 1983 to February 9, 1988. Respondent dispensed thyroid extract and phentermine in combination to patient G continuously for two months in 1983, eight months in 1984, three months in 1985, eight months in 1987 and four months at the end of 1987 and beginning of 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 10)

9. Respondent treated Patient H from January 18, 1980 to February 2, 1988. Respondent dispensed thyroid extract and

phentermine in combination to Patient H at the initial office visit and continuously for nine months in 1985, twelve months in 1986 and five months at the end of 1987 and the beginning of 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 11)

10. Respondent treated Patient I from November 16, 1984 to January 26, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient I on November 16, 1984, March 22, 1985 and April 19, 1985. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 12)

11. Respondent treated Patient J from September 3, 1986 to January 26, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient J continuously for two months in 1986 and eight months in 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were

obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 13)

12. Respondent treated Patient K from May 15, 1982 to February 10, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient K continuously for four months in 1982, six months in 1983, two months in 1984 and three months in 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 14)

13. Respondent treated Patient L from January 29, 1985 to February 3, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient L continuously for 10 months in 1985 and 1986, and four months in 1986 and 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 15)

14. Respondent treated Patient M from August 26, 1987 to February 12, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient M on August 26, 1987. No physical examination was recorded except for blood pressure,

pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 16)

15. Respondent treated Patient N from May 2, 1983 to February 9, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient N on May 2, 1983, September 10, 1985, October 8, 1985, November 5, 1985, January 29, 1986, October 17, 1986, March 17, 1987 and February 9, 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 17)

16. Respondent treated Patient O from October 26, 1984 to January 26, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient O on October 26, 1984, November 23, 1984, December 21, 1984, January 25, 1985, March 11, 1985, April 19, 1985, May 17, 1985, June 14, 1985, July 19, 1985, February 28, 1986, March 28, 1986, April 25, 1986, May 23, 1986, June 26, 1986, August 19, 1986, September 16, 1986 and November 18, 1986. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No

laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 18)

17. Respondent treated Patient P from December 1, 1978 to January 26, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient P on December 1, 1978, December 29, 1978, February 17, 1981, April 20, 1984, May 18, 1984, June 16, 1984, August 14, 1984, September 26, 1984, January 15, 1985, February 12, 1985, September 23, 1985, October 1, 1985, October 29, 1985, December 10, 1985, January 28, 1986, June 17, 1986, August 12, 1986, September 15, 1986, December 2, 1986, January 6, 1987 and February 10, 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. Patient P's blood pressure was elevated throughout the course of treatment, ranging from mild to moderate hypertension. No laboratory profiles were obtained and no thyroid function tests were done. (54; Dept. Ex. 3, Dept. Ex. 19)

18. Respondent treated Patient Q from September 23, 1980 to January 1, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient Q on September 23, 1980, October 21, 1980, November 19, 1980, December 11, 1980, January 14, 1981, February 11, 1981, March 18, 1981, April 15,

1981, May 13, 1981, January 11, 1983, February 8, 1983, March 8, 1983, April 5, 1983, May 3, 1983, May 31, 1983, June 28, 1983, July 26, 1983, May 22, 1987, June 19, 1987, July 17, 1987, August 14, 1987, September 11, 1987, October 9, 1987, December 4, 1987, December 23, 1987 and January 29, 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 20)

19. Respondent treated Patient R from March 5, 1986 to February 3, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient R on March 5, 1986, April 2, 1986, November 18, 1986, June 19, 1987, August 21,

1987 and February 3, 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 21)

20. Respondent treated Patient S from October 25, 1985 to February 3, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient S on October 25, 1985, November 25, 1985 and January 4, 1986. No physical examination was recorded except for blood pressure, pulse, weight, and body

measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 22)

21. Respondent treated Patient T from November 18, 1986 to February 9, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient T on November 18, 1986, December 16, 1986, January 13, 1987, February 10, 1987, March 10, 1987, April 7, 1987, May 5, 1987, June 2, 1987, June 30, 1987, July 28, 1987 and August 25, 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. Patient T's blood pressure was elevated throughout the course of treatment, ranging from mild to moderate hypertension. No laboratory profiles were obtained and no thyroid function tests were done. (56; Dept. Ex. 3, Dept. Ex. 23)

22. Respondent treated Patient U from July 21, 1986 to January 26, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient U on July 21, 1986, August 18, 1986, August 11, 1987 and September 8, 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 24)

23. Respondent treated Patient V from April 17, 1987 to January 25, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient V on April 17, 1987 to January 25, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient V on April 17, 1987, May 15, 1987, June 15, 1987, July 13, 1987 and August 10, 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 25)

24. Respondent treated Patient W from April 6, 1984 to February 9, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient W on April 6, 1984, May 4, 1984 and February 9, 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 26)

25. Respondent treated Patient from March 3, 1987 to February 9, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient X on March 3, 1987, March 31, 1987, April 28, 1987, May 26, 1987, June 23, 1987, July 28, 1987, August 25, 1987, September 22, 1987, November 17, 1987,

December 15, 1987, January 12, 1988 and February 9, 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 27)

26. Respondent treated Patient Y from March 10, 1987 to February 3, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient Y on March 10, 1987, April 8, 1987, May 6, 1987, August 21, 1987 and February 3, 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function test were done. (Dept. Ex. 3, Dept. Ex. 28)

27. Respondent treated Patient Z from October 25, 1987 to January 16, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient Z on January 16, 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 29)

28. Respondent treated Patient AA from June 26, 1987 to September 18, 1987. Respondent dispensed thyroid extract and

phentermine in combination to Patient AA on June 26, 1987, July 24, 1987 and August 21, 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 30)

29. Patient AA had a history of psychiatric illness, including two previous hospital admissions. During her treatment by Respondent, Patient AA was admitted to Hutchings Psychiatric Center with a diagnosis of NOS psychotic disorder; rule out drug/diet pill induced psychosis; rule out catatonic schizophrenia. (Dept. Ex. 31)

30. Respondent treated Patient BB from October 19, 1982 to September 2, 1987. Respondent dispensed thyroid extract and phentermine in combination to Patient BB on October 19, 1982, May 10, 1983, August 15, 1984, September 12, 1984, October 8, 1984, November 7, 1984, December 5, 1984, January 1, 1985, January 30, 1985, April 12, 1985, May 10, 1985, June 7, 1985, June 28, 1985, July 2, 1985, November 24, 1986, December 19, 1986, January 20, 1987, February 17, 1987, March 17, 1987, April 14, 1987, May 12, 1987, June 8, 1987, July 8, 1987 and August 5, 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. Patient BB's

blood pressure was elevated during the course of treatment, ranging from mild to moderate to severe hypertension. No laboratory profiles were obtained and no thyroid function tests were done. (56; (Dept. Ex. 3, Dept. Ex. 32)

31. Respondent treated Patient CC from July 6, 1987 to August 27, 1987. Respondent dispensed thyroid extract and phentermine in combination to Patient CC on July 6, 1987 and August 3, 1987. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 34)

32. Respondent treated Patient DD from July 8, 1986 to September 9, 1988. Respondent dispensed thyroid extract and phentermine in combination to Patient DD on July 8, 1986, August 6, 1986, August 28, 1986, October 24, 1986, November 21, 1986, February 26, 1988, July 13, 1988, August 12, 1988 and September 9, 1988. No physical examination was recorded except for blood pressure, pulse, weight and body measurements. No laboratory profiles were obtained and no thyroid function tests were done. (Dept. Ex. 3, Dept. Ex. 36, Dept. Ex. 37)

33. On October 4, 1986, Patient DD was seen at the emergency room at Crouse-Irving Memorial Hospital, Syracuse, New

York complaining of palpitations, nausea, diaphoresis and syncope. Her EKG in the emergency room was irregular, showing PAC's which later cleared. Patient DD's condition was related to Respondent's treatment. (63; Dept. Ex. 38, Dept. Ex. 40)

34. Theodore H. Zeltner, M.D., a board certified physician in internal medicine, testified as an expert witness for the department. (14)

35. It was Dr. Zeltner's opinion that a basic physical examination, including a review of all major organ systems for signs of any other concomitant illness, is required prior to beginning a weight reduction program. This would include vital signs, examination of the lungs, heart, abdomen, extremities, skin, lymph nodes, eye, ears, nose and throat. In some cases it should include rectal, prostate and neurological examinations. (28-31; Dept. Ex. 39)

36. Dr. Zeltner further testified that prior to beginning a weight reduction program, laboratory profiles, including complete blood counts and blood chemistries are indicated. Additionally, where the proposed treatment plan includes stimulant medication, electrocardiography and urinalysis are also necessary. These diagnostic studies are necessary to detect medical conditions that a patient may have

which would contraindicate the use of certain medications or diet programs. Further, it is necessary to determine whether any weight loss experienced by a patient is due to the diet program, or an underlying medical condition. (36-38; Dept. Ex. 39)

37. Prior to dispensing thyroid extract, thyroid function tests are necessary to determine whether or not the thyroid gland is producing an appropriate level of thyroid hormone, or is suffering from any abnormalities. (38-43; Dept. Ex. 39)

38. During a course of treatment with thyroid extract periodic testing of thyroid function is necessary to prevent the initiation of hyperthyroidism in the patient. (42-43; Dept. Ex. 39)

39. The medical indications for the use of thyroid extract are to correct an underactive thyroid gland or to suppress an enlarged gland. Thyroid extract is not medically indicated for weight reduction. (39, 43-44, 148-149; Dept. Ex. 39)

40. Phentermine is an amphetamine-like derivative used as an appetite suppressant on a short-term basis in conjunction with a calorie restricted diet. The appetite suppressant effect

of phentermine wears off after a few weeks. However, its potential side effects, i.e., increased blood pressure, palpitations, chest pain, insomnia and emotional disturbances, remain constant. The use of phentermine for more than a few weeks duration is medically unjustified. (45-46; Dept. Ex. 39)

41. Thyroid extract and phentermine in combination are contraindicated. The combination of the two magnifies the risk of potential side effects with no potential benefit to the patient. (47, 133, 192-193; Dept. Ex. 39)

42. The use of thyroid extract and phentermine in patients with hypertension is contraindicated by the risk of exacerbating this condition. (52-53; 192-193, 201; Dept. Ex. 39)

43. The use of thyroid extract and phentermine in patients with mitral valve prolapse is contraindicated by the risk of exacerbating this condition. (60-61, 171; Dept. Ex. 39)

44. The use of thyroid extract and phentermine in patients with a psychiatric history is contraindicated by the risk of emotional disturbance. (46; Dept. Ex. 39)

45. During the course of weight control and reduction appropriate dietary counseling, including a calorie restricted diet, is necessary. (48-50)

46. Respondent provides minimal dietary counselling to his patients in the form of written instructions. (Resp. Ex. A)

CONCLUSIONS

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. Numbers in parentheses refer to the specific Findings of Fact which support each conclusion.

The Hearing Committee concludes that the following Specifications should be SUSTAINED:

1. Thirty-One through Sixty: (1-44);
2. Sixty-One: (1-44);
3. Sixty-Two: (1-44).

The Hearing Committee concludes that the following Specifications should NOT BE SUSTAINED:

1. One through Thirty: (1-44).

DISCUSSION

Respondent is charged with professional misconduct within the meaning of Section 6509(2) of the Education Law by practicing medicine with gross negligence, gross incompetence, negligence on more than one occasion, and with incompetence on more than one occasion. During the course of its deliberations, the Hearing Committee consulted a memorandum, dated September 19, 1988, prepared by Peter J. Millock, Esq., General Counsel for the Department. This document, entitled "Definitions of Professional Misconduct under the New York Education Law", describes, inter alia, suggested definitions for various types of misconduct prohibited under Section 6509(2). (The Education Law does not provide definitions). These suggested definitions are set forth below:

Incompetence is a lack of the skill or knowledge necessary to practice the profession;

Gross incompetence is an unmitigated lack of skill or knowledge necessary to perform an act undertaken by the licensee in the practice of medicine;

Negligence is a failure to exercise the care that would be exercised by a reasonably prudent licensee under the circumstances, and

Gross negligence is a failure to exercise the care that would be exercised by a reasonably prudent licensee under the circumstances, a disregard of the consequences which may ensue from such failure and an indifference to the rights of others.

Utilizing these definitions as a framework for its deliberations, the Hearing Committee concluded that, by a preponderance of the evidence, Respondent was guilty of negligence on more than one occasion, incompetence on more than one occasion and gross incompetence. However, the Hearing Committee was of the unanimous opinion that Respondent's conduct did not demonstrate the disregard of the consequences and an indifference to the rights of others necessary to sustain the charge of gross negligence.

Respondent's use of phentermine and thyroid extract is based on training which he received approximately twenty years ago, from a private physician in Kansas City. (Tr., pp. 229, 332). Respondent was unable to identify any additional training regarding the management of obese patients received

during the intervening years. (Tr., p. 334). He was unable to identify any authoritative sources which recommend the use of thyroid extract to treat obesity, thyroid extract in combination with phentermine, or the long-term use of phentermine for weight control and reduction. (Tr., p. 334).

Despite Respondent's use of thyroid extract for weight control and reduction for approximately twenty years, he did not appear to understand how the thyroid gland functions, nor how to use any of the modern diagnostic laboratory procedures used to evaluate its functioning. He couldn't identify the side effects of phentermine nor the contraindications for its use. (Tr., pp. 46-47, 326-327, 343).

Due to this unmitigated lack of basic medical knowledge, Respondent's treatment of Patient's B, P, T and BB failed to meet minimally acceptable medical standards, in that he dispensed thyroid extract and phentermine to these patients in spite of their contraindicating histories of hypertension. Further, Respondent's treatment of Patient DD failed to meet acceptable medical standards in that Respondent dispensed thyroid extract and phentermine despite a contraindicating history of mitral valve prolapse. Additionally, Respondent's treatment of Patient AA failed to meet acceptable medical

standards in that Respondent dispensed thyroid extract and phentermine despite a contraindicating psychiatric history.

Respondent's misconduct was compounded by his failure to perform adequate patient histories and physical examinations before embarking on a potentially hazardous course of treatment for the thirty patients identified in this case. There was no factual dispute between the parties as to what constitutes an adequate physical examination. (See, F.O.F. #35). It was also undisputed that the medical records to patients A-DD (records chosen at random) contain no entries regarding physical examinations other than partial vital signs and body measurements.

Respondent claimed that he personally performed a physical examination on each of the thirty patients in question. (Tr., pp. 230, 284). He also testified that he would note any abnormal findings on the patient's charts. (Tr., p. 236). However, it would strain the credulity of the Hearing Committee to find that none of the thirty randomly chosen patients presented at the hearing had any abnormal findings upon physical examination. Therefore, the Hearing Committee discounted Respondent's testimony and concluded that he failed to perform physical examinations on Patients A-DD which met minimally

acceptable standards. The Hearing Committee concluded that Respondent's conduct with regard to Patient's A-DD constituted gross incompetence, incompetence on more than one occasion, as well as negligence on more than one occasion, as defined above.

RECOMMENDATIONS

The Hearing Committee, pursuant to its Findings of Fact and Conclusions herein unanimously recommends that Respondent's license to practice medicine in the State of New York be revoked. This recommendation was reached after due consideration of the full spectrum of available penalties, including suspension, probation, censure and reprimand, or the imposition of civil penalties of up to \$10,000 per violation.

The record clearly demonstrated Respondent's long-standing pattern of practice, which was based on woefully inadequate knowledge of the basic physiology of the thyroid gland, or of the medications which Respondent prescribed for weight reduction and control. His continued indiscriminate use of such potentially dangerous drugs as phentermine would place the community at an unacceptable risk. A mere suspension would not alleviate this risk. Additionally, given the nature of

Respondent's medical practice. (which is entirely office-based) a term of probation coupled with monitoring would not be practicable. The imposition of a monetary penalty would also serve no useful purpose, since it would remove resources for suitable re-training, should Respondent seek it. Thus, it is clear that revocation is the only appropriate penalty, under the circumstances.

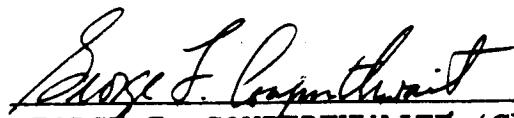
Based upon the foregoing, the Hearing Committee made the following recommendations:

1. That Specifications One through Thirty, as set forth in Department's Exhibit #1-A NOT BE SUSTAINED;
2. That Specifications Thirty-One through Sixty-Two be SUSTAINED, and

3. That Respondent's license to practice medicine in
New York State be REVOKED.

DATED: *MARCH 6* , New York
1990

Respectfully submitted,



GEORGE F. COUPERTHWAITE (Chair)

Martin Diamond, D.O.
Daniel A. Sherber, M.D.

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

-----X
IN THE MATTER :

OF :

IRA N. WEINER, D.O. :

COMMISSIONER'S

RECOMMENDATION
-----X

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 June 7, 1989, July 5, 1989, and August 24, 1989. Respondent, Ira N. Weiner, D.O., appeared by Jeffrey Bettan, Esq. The evidence in support of the charges against the Respondent was presented by Kevin C. Roe, 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 Recommendation of the Committee should be accepted; and
- C. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions and further adopting as its determination the Recommendation described above.

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

DATED: Albany, New York
April 26, 1990


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

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

IRA N. WEINER

CALENDAR NO. 10958



The University of the State of New York

IN THE MATTER

OF

IRA N. WEINER
(Physician)

DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 10958

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 10958, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (October 19, 1990): That, in the matter of IRA N. WEINER, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The findings of fact of the hearing committee be accepted and therefore the recommendation of the Commissioner of Health as to those findings of fact, being in agreement with the hearing committee, also be accepted;
2. The conclusions of the hearing committee be accepted, except the conclusions of the hearing committee as to the thirty-first, forty-third, fifty-sixth, sixty-first, and sixty-second specifications insofar as they relate to paragraph B.6. of the charges and as to the fifty-seventh, sixty-first, and sixty-second specifications insofar as they relate to paragraph E not be accepted; and therefore the recommendation of the Commissioner of Health as to those conclusions, being in agreement with the hearing committee, be accepted to the extent we accept the conclusions of the hearing committee;

3. Respondent is guilty, by a preponderance of the evidence, of the thirty-second through forty-second, forty-fourth through fifty-fifth, and fifty-eighth through sixtieth specifications, guilty of the thirty-first, forty-third, fifty-sixth, fifty-seventh, sixty-first and sixty-second specifications, except to the extent such specifications relate to paragraphs B.6. and E, and not guilty of the remaining specifications and charges; and
4. The measure of discipline recommended by the hearing committee be accepted and therefore the recommendation of the Commissioner of Health, being in agreement with the hearing committee, also be accepted and 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 was found guilty, as aforesaid;

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 26th day of
October, 1990.

Thomas Sobol
Commissioner of Education