

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

IN THE MATTER

OF

TERESITA GUNGON, M.D.

SECOND
MODIFICATION
ORDER

BPMC No. #03-182

Upon the proposed Application for a Modification Order of **TERESITA GUNGON, M.D.**, (Respondent) for Consent Order, that is made a part of this Modification Order, it is agreed to and

ORDERED, that the attached Application, and its terms, are adopted SO ORDERED, and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either by mailing of a copy of this Modification Order, by either first class mail, to Respondent at the address in the attached Application or certified mail to Respondent's attorney, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 4-11-2008

Redacted Signature

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
TERESITA GUNGON, M.D.

APPLICATION TO
MODIFY CONSENT ORDER
BPMC No. 03-182 AND
MODIFICATION ORDER
BPMC No. 03-182

TERESITA GUNGON, M.D., (Respondent) deposes and says:

That on or about November 5, 1971, I was licensed to practice as a physician in the State of New York, having been issued License No. 110602 by the New York State Education Department.

My current address is Redacted Address

I am currently subject to Consent Order BPMC No. 03-182 (hereinafter "Original Order") and Modification Order BPMC No. 03-182, (hereinafter "Modification Order 1"), annexed hereto, made a part, hereof, and marked as Exhibit 1, that were issued on July 9, 2003 and May 25, 2005, respectively.

I apply to the State Board for Professional Medical Conduct for a Second Modification Order (hereinafter "Modification Order 2"), modifying the Modification Order 1, as follows: to delete the paragraphs in the Modification Order 1 that state:

" My license shall be limited to practice only in the field of obstetrics and gynecology; further I shall be on probation, during which time I must fully comply with the Terms of Probation in Exhibit B, attached hereto and made a part of this Application, until I provide information satisfactory to the Director of the Office of Professional Medical Conduct that I have permanently ceased the practice of medicine."

" That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Modification Order's effective date and will continue so long as Respondent remains licensed in New York State; and"

substituting therefore:

"Respondent shall never activate her registration to practice medicine in New York state or seek to reapply for a license to practice medicine in New York state."

Modification Order 2 to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language in Modification Order 1.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive any right I may have to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

AFFIRMED:

DATED: 4/3/08

Redacted Signature

TERESITA GUNGON, M.D.
Respondent

The undersigned agree to the attached application of Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 08 April 2008

Redacted Signature

ROBERT BOGAN
Associate Counsel,
Bureau of Professional Medical Conduct

DATE: 4/10/08

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct



New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chairman

Michael A. Gonzalez, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

Public

May 25, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Teresita Gungon, M.D.

Redacted Address

Re: License No. 110602

Dear Dr. Gungon:

Enclosed is a copy of Modification Order #BPMC 03-182 of the New York State Board for Professional Medical Conduct. This modification order and any penalty provided therein goes into effect June 1, 2005.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Redacted Signature
Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Richard S. Tubiolo, Esq.
Hirsch & Tubiolo, P.C.
1000 Reynolds Arcade Building
16 East Main Street
Rochester, NY 14437

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

IN THE MATTER
OF
TERESITA GUNSON, M.D.

MODIFICATION
ORDER
BPMC No. 03-182

Upon the application of TERESITA GUNSON, M.D. (Respondent) in the attached Application to Modify Order BPMC No. 03-182 which is made a part of this Modification Order, it is

ORDERED, that the Application to Modify Order BPMC No. 03-182 and its terms are adopted and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Modification Order, either by first class mail to Respondent at the address in the attached Application to Modify Order BPMC No. 03-182, or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 5-25-2005

Redacted Signature
~~KENDRICK A. SEARS, M.D.~~
Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
TERESITA GUNGON, M.D.

APPLICATION
TO MODIFY
ORDER
BPMC No. 03-182

TERESITA GUNGON, M.D., representing that all of the following statements are true, deposes and says:

That on or about November 5, 1971, I was licensed to practice as a physician in the State of New York, and issued License No. 110602 by the New York State Education Department.

My current address is Redacted Address, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I am the subject of Order No. BPMC 03-182, annexed hereto, made a part hereof, and marked as Exhibit 1. I am applying to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the original order as I understand that the New York State Board for Professional Medical Conduct has charged me with Two Specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Application to Modify Order BPMC No. 03-182.

I do not contest the First Specification in full satisfaction of the charges against me, and agree to the following penalty, which is a modification of, and

replaces, the penalty set forth in Consent Order BPMC No. 03-182, dated July 9, 2003:

My license shall be limited to practice only in the field of obstetrics and gynecology; further I shall be on probation, during which time I must fully comply with the Terms of Probation in Exhibit B, attached hereto and made a part of this Application, until I provide information satisfactory to the Director of the Office of Professional Medical Conduct that I have permanently ceased the practice of medicine.

I further agree that the Modification Order shall impose the following conditions:

That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Modification Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic

verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Modification Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this Application and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Application to Modify Order BPMC No. 03-182.

I understand that if the Board does not adopt this Application, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Application, the Chair of the Board shall issue a Modification Order in accordance with its terms. I agree that this

Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Modification Order by first class mail to me at the address in this Modification Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Application of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Modification Order for which I apply, whether administratively or judicially, I agree to be bound by the Modification Order, and ask that the Board adopt this Application to Modify Order BPMC No. 03-182.

DATE: 5/2/05

Redacted Signature
TERESITA GUNGON, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Application to Modify Order
BPMC No. 03-182 and to its proposed penalty, terms and conditions.

DATE: 5-3-05

Redacted Signature
RICHARD S. TUBIOLLO
Attorney for Respondent

DATE: 5/6/05

Redacted Signature
KEVIN P. DONOVAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/23/2005

Redacted Signature
DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
TERESITA GUNGON, M.D.

STATEMENT
OF
CHARGES

TERESITA GUNGON, M.D., Respondent, was authorized to practice medicine in New York State on November 5, 1971, by the issuance of license number 110602 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A, a female born September 15, 1963 (patients are identified in Appendix A, attached, for confidentiality reasons) from around 1987 until at least 2002, at her office, 253 Main Street, Dansville, New York, and at Noyes Memorial Hospital, Dansville, New York. Respondent's care of Patient A did not meet acceptable standards of care in that Respondent performed a dilatation and curettage on March 26, 2002, without adequate attempts at medical therapy.
- B. Respondent provided care for Patient B, a female born October 9, 1978, from on or around November 1999 until at least June 2003, at her office and at Noyes Memorial Hospital. Respondent's care of Patient B failed to meet accepted standards of care in that Respondent performed a dilatation and curettage on February 25, 2003, without adequate attempts at medical therapy.

EXHIBIT A

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as set forth in two or more of the following:

1. The facts of paragraphs A and/or B.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as set forth in two or more of the following:

2. The facts of paragraphs A and/or B.

DATED: May 6, 2005
Albany, New York

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

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Modification Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or are necessary to protect the public health.
6. Respondent shall practice medicine only when monitored, as set forth in the following subparagraphs, by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection of no fewer than 20

records maintained by Respondent, including patient records, prescribing information and office records. In addition to the random selection, the monitor must review the records of all patients who had a dilatation and curettage or a hysterectomy. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.

- b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits of no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
 8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
 9. Respondent shall enroll in and complete a continuing education program in the areas of management of abnormal uterine bleeding and the indications for dilatation and curettage and hysterectomies. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the first six months of the probation period.
 10. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.



New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

PUBLIC

William P. Dillon, M.D.
Chair

Michael A. Gonzalez, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

July 10, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Teresita Gungon, M.D.

Redacted Address

Re: License No. 110602

Dear Dr. Gungon:

Enclosed please find Order #BPMC 03-182 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect July 17, 2003.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Redacted Signature

Ansel R. Marks, M.D., J.D.
Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Richard S. Tubiolo, Esq.
Hirsch & Tubiolo, P.C.
1000 Reynolds Arcade Bldg.
16 East Main Street
Rochester, New York 14614-1796

IN THE MATTER
OF
TERESITA GUNGON, M.D.

CONSENT
ORDER
BPMC No. 03-182

Upon the application of TERESITA GUNGON, M.D., (Respondent), in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Order shall be effective upon issuance by the Board,
either

by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
upon facsimile transmission to Respondent or Respondent's attorney,
Whichever is first.

SO ORDERED.

DATED: 7-9-03

Redacted Signature _____
WILLIAM P. DILLON, M.D.
Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
TERESITA GUNGON, M.D.

CONSENT
AGREEMENT
AND
ORDER

TERESITA GUNGON, M.D., representing that all of the following statements are true, deposes and says:

That on or about November 5, 1971, I was licensed to practice as a physician in the State of New York, and issued License No. 110602 by the New York State Education Department.

My current address is Redacted Address, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with two specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and made part of this Consent Agreement.

I admit guilt to the first specification concerning Patient A in full satisfaction of the charges against me, and voluntarily agree to the following penalty:

My license shall be limited to practice only in the field of obstetrics and gynecology; further I shall be on probation for a period of three years during which time I must fully comply

with the Terms of Probation in Exhibit B which is attached to and made a part of this Agreement.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order shall be admitted into evidence in that proceeding. I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATED: 6/26/03

Redacted Signature:
TERESTA GUNSON, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATED: 6/27/03

Redacted Signature
RICHARD S. TUBIOLLO
Attorney for Respondent

DATED: 6/30/03

Redacted Signature
KEVIN P. DONOVAN
Associate Counsel
Bureau of Professional Medical Conduct

DATED: 7/02/03

Redacted Signature
DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
TERESITA GUNGON, M.D.

STATEMENT
OF
CHARGES

TERESITA GUNGON, M.D., Respondent, was authorized to practice medicine in New York State on November 5, 1971, by the issuance of license number 110602 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A, a 50 year old female, (patients are identified in Appendix A, attached, for confidentiality reasons) from on or about 1981 until around December 1999, at her office, 253 Main Street, Dansville, New York, and at Noyes Memorial Hospital, Dansville, New York. Respondent's care of Patient A did not meet acceptable standards of care in that:
1. In or around August 1999, Respondent failed to adequately evaluate Patient A for the cause of upper body pain.
 2. Respondent referred Patient A to a pain management specialist without adequately evaluating the patient for the cause of upper body pain.
- B. Respondent provided care for Patient B, a 35 year old female, from on or about September 1995 until around January 1996, at her office and at Noyes Memorial Hospital. Respondent's care of Patient B failed to meet accepted standards of care, in that on January 25, 1996, Respondent failed to appropriately respond to reports of post-surgical abdominal pain and falling blood pressure after a tubal ligation, salpingo-oophorectomy, and hernia repair.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as set forth in two or more of the following:

1. The facts of paragraphs A and A.1, A and A.2 and/or B.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as set forth in two or more of the following:

2. The facts of paragraphs A and A.1, A and A.2 and/or B.

DATED: June 30, 2003

Albany, New York

Redacted Signature

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

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
6. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
7. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
8. Within thirty days of the effective date of the order, Respondent shall practice medicine only when monitored, as set forth in the following subparagraphs, by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC:

- a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care and in accordance with the limitation of the license prohibiting practice other than in the fields of obstetrics and gynecology. Any perceived deviation of accepted standards of medical care, the license limitation, or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
9. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.