



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

March 28, 2003

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Robert Bogan, Esq.  
Paul Robert Maher, Esq.  
NYS Department of Health  
Hedley Park Place  
433 River Street – 4<sup>th</sup> Floor  
Troy, New York 12180

Carolyn Shearer, Esq.  
Bond, Schoeneck & King, PLLC  
111 Washington Avenue  
Albany, New York 12210-2211

Rajesh S. Suri, M.D.  
1873 Vinehill Circle  
Fremont, California 94539

Rajesh S. Suri, M.D.  
1900 Mowry Avenue, Suite 201  
Fremont, California 94538

**RE: In the Matter of Rajesh S. Suri, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 03-83) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct."

Either the licensee or the Department may seek a review of a committee determination.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

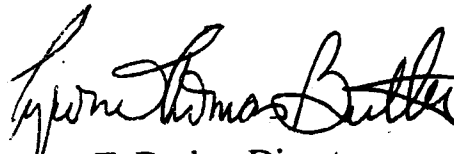
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:cah  
Enclosure

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

IN THE MATTER  
OF  
**RAJESH SAM SURI, M.D.**

DETERMINATION  
AND  
ORDER  
BPMC #03-83

**COPY**

A Notice of Referral Proceeding and Statement of Charges, both dated September 25, 2002, were served upon the Respondent, **RAJESH SAM SURI, M.D.**. **MARY PATRICIA MEAGHER, R.N.**, Chairperson, **NISHA K. SETHI, M.D.** and **DIANA E. GARNEAU, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on March 19, 2003, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent appeared by **CAROLYN SHEARER, ESQ.**

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

## **STATEMENT OF CASE**

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Sections 6530(9)(d), based upon actions constituting violations of subdivisions (2), (3), (4), (5), (6), (20), (21) and (32). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

### **WITNESSES**

For the Petitioner:

None

For the Respondent:

Rajesh Sam Suri, M.D.

### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex.". These citations refer to 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. All Hearing Committee findings were unanimous.

1. **RAJESH SAM SURI, M.D.**, the Respondent, was authorized to practice medicine in New York State on August 31, 1987, by the issuance of license number 172094 by the New York State Education Department (Ex. 4).
2. On August 5, 2002, by adoption of a Stipulated Settlement and Disciplinary Order agreed to by Respondent and the Executive Director of the Medical Board of California ("the California Board"), the California Board issued a decision subjecting Respondent to disciplinary action, consisting of a public reprimand, payment of \$4,000 costs, the completion of a PACE Program in record keeping, and completion of an ethics course. The charges in the Accusation that initiated the proceeding against Respondent dealt with errors Respondent made in his handling of three patient cases (Ex. 5).

### **HEARING COMMITTEE CONCLUSIONS**

The hearing Committee concludes that the conduct resulting in the California Board's disciplinary actions against Respondent would constitute misconduct under New York Education Law §6530(9)(b) in that the conduct would have constituted misconduct in New York State, had it been committed here, pursuant to:

- New York Education Law §6530(2) (practicing the profession fraudulently);
- New York Education Law §6530(3) (negligence on more than one occasion);
- New York Education Law §6530(20) (moral unfitness);
- New York Education Law §6530(21) (willfully making a false report);
- New York Education Law §6530(32) (inadequate record keeping);

## **VOTE OF THE HEARING COMMITTEE**

### **SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state.

**VOTE: SUSTAINED (3-0)**

### **HEARING COMMITTEE DETERMINATION**

The basis for the New York State charges in this case was the adoption by the California Board of a Stipulated Settlement and Disciplinary Order entered into between Respondent and the Executive Director of the Board. In the stipulation, Respondent stated that he "...understands and agrees that the charges and allegations in [the Accusation], if proven at a hearing, constitute cause for imposing discipline...". Respondent also agreed that "(f)or the purpose of resolving the Accusation without the expense and uncertainty of further proceedings..." his license was "...subject to discipline and he agrees to be bound by the ...imposition of discipline...". Although the Stipulation does not specify which allegations in Accusation were valid indicators of misconduct, Respondent's acceptance of discipline leads the Hearing Committee to conclude that the allegations were founded, and Respondent's testimony largely corroborated this assessment.

The Accusation charged that Respondent, because he had not obtained the first patient's previous records in a timely manner, had ordered an unnecessary coronary angiogram for the patient, who had terminal cancer (ampullary carcinoma with metastasis).

Respondent admitted at the hearing that he had "dropped the ball" by delaying in getting this patient's past medical records, and that he would not have performed the angiogram had he known how serious the patient's condition was at the time.

The Accusation also charged that Respondent had ordered and performed an invasive cardiac procedure (coronary catheterization) on the second patient without clinical indication of a significantly unstable coronary condition when a full cardiac catheterization had been performed only four months prior, and that he had affixed false dates on chart entries for this patient. Respondent admitted that he backdated a note he started earlier, although denying that the catheterization was performed without justification.

With respect to the third patient, the Accusation charged that Respondent was covering for another physician and had neglected to see one of this physician's patients for four days, and that he had subsequently backdated progress notes for this patient. Respondent admitted at the hearing that he did not realize the patient was in the hospital and that he "dropped the ball", and admitted that he did not see the patient on the date indicated in the note he created later for this patient.

The evidence is sufficient to establish that Respondent committed misconduct as defined in Education Law §6530(9)(b), in that his conduct would have constituted misconduct in New York State, had it been committed here, under the Education Law §6530 subsections cited above in the Conclusions section of this decision. The Hearing Committee found no support in the California documentation for the charges in the instant case that Respondent's conduct would have constituted gross negligence or incompetence.

Accordingly, the only issue remaining to be decided is the penalty to be imposed in New York State for the acts of misconduct. As noted above, Respondent admitted that he committed errors in the handling of the cases cited by the California Board, and it was the

gist of his case that he learned from these errors and from the remedial measures mandated by the California Board. Respondent established at the hearing that he has completed the mandated courses and programs (Ex. A), and testified credibly that he has made significant changes in the way he handles cases and limited his workload in an attempt to avoid recurrences of problems of the sort cited by the California Board. Respondent also testified that he has voluntarily limited his use of invasive procedures of the type involved in the cases at issue.

The Hearing Committee notes that the incidents that led to the California Order occurred in 1995 and 1996, and, as far as this record reveals, he has had no similar problems since that time. This is some indication that the changes Respondent made in his practice have had a beneficial effect. The Hearing Committee concludes unanimously that the appropriate penalty is a censure and reprimand, and the imposition of probation should Respondent return to New York to practice medicine in the future, and that revocation or suspension of his license would not be appropriate. The terms of probation are set forth in the Order, which follows.



## ORDER

### IT IS HISEBY ORDERED THAT:

1. A **CENSURE AND REPRIMAND** are hereby issued against the New York medical license of **RAJESH SAM SURI, M.D.**
2. Should Respondent return to New York State to practice in the future, his practice will be subject to a **TWO (2) YEAR PERIOD OF PROBATION**. The terms of probation are set forth below.
3. If, at some future date, the Respondent chooses to resume practice in New York, he must provide thirty (30) days prior written notice concerning his intention, by registered or certified mail, return receipt requested, to the Board, addressed to the Director, Office of Professional Medical Conduct, Hedley Park Place, 433 River Street - Fourth Floor, Troy, New York 12180-2299. Said notice is to include a full description of any employment and practice since the date of this hearing, as well as a listing of professional and residential addresses and telephone numbers within or without New York State. The notification must also list any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility since the date of this hearing.
4. The terms of Respondent's probation are as follows:
  - A). Respondent shall submit written descriptive notification to OPMC of any changes in employment and practice, professional and residential addresses or telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility during the probationary period, within 30 days of each event;
  - B). If, after returning to New York State, Respondent ceases to be engaged

in, or intends to leave, the active practice of medicine in New York State for a period of thirty (30) consecutive days or more, he shall notify the Director of New York State Office of Professional Medical Conduct ("OPMC") at the address listed above. The probation shall be tolled during any period when he is not practicing in New York and shall resume upon his return to practice in New York State.

- C). Respondent shall notify in writing any medical facility with whom he becomes affiliated or at which he practices during the effective period of this probation, of the contents of this order and terms of probation, and provide a copy of any such notification to OPMC.
- D). OPMC may, at its discretion, take any and all steps necessary to monitor Respondent's status, condition or professional performance. Respondent must cooperate in providing releases permitting unrestricted access to records and other information, to the extent permitted by law, from any employer, medical facility or institution with which he is affiliated or at which he practices; any treatment facility, treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of Respondent, or maintained by a rehabilitation program for impaired Respondents. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of his compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
- E). Respondent 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 and obligations imposed by law and by his profession. Respondent shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients.
- F). Respondent shall comply with all terms, conditions, and restrictions to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance.
- G). If there is full compliance with every term and condition set forth herein, Respondent may practice as a physician in New York State; provided, however, that on receipt of evidence of non-compliance or any other violation of the term(s) and condition(s) of probation, a violation of probation proceeding and/or such other proceeding as may be warranted, may be initiated against Respondent pursuant to New York Public Health Law Sections 230 or any other applicable laws.

The **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Rochester, New York

*March 26*, 2003

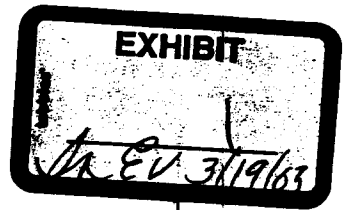
*Mary Patricia Meagher*

MARY PATRICIA MEAGHER, R.N.  
Chairperson

NISHA K. SETHI, M.D.  
DIANE E. GARNEAU, M.D.

# APPENDIX 1

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



**IN THE MATTER**

**NOTICE OF**

**OF**

**REFERRAL**

**RAJESH S. SURI, M.D.  
CO-02-08-3994-A**

**PROCEEDING**

**TO: RAJESH S. SURI, M.D.  
1873 Vinehill Circle  
Fremont, CA 94539**

**RAJESH S. SURI, M.D.  
1900 Mowry Avenue, Suite 201  
Fremont, CA 94538**

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 25<sup>th</sup> day of October 2002, at 10:00 in the forenoon of that day at the Hedley Park Place, 5<sup>th</sup> Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York state. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5<sup>th</sup> Floor, 433 River Street, Troy, New York, ATTENTION: HON.

TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before October 15, 2002.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before October 15, 2002, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

**SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

DATED: Albany, New York

*Sept. 25*, 2002

*Peter D. Van Buren*

PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan  
Associate Counsel  
New York State Department of Health  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828

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

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IN THE MATTER  
OF  
RAJESH S. SURI, M.D.  
CO-02-08-3994-A

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STATEMENT  
OF  
CHARGES

RAJESH S. SURI, M.D., the Respondent, was authorized to practice medicine in New York state on August 31, 1987, by the issuance of license number 172094 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about July 5, 2002, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, (hereinafter "California Board"), by a Decision, required Respondent's to successfully complete a record keeping course and a CME ethics course and to pay \$4,000.00 costs of investigation, based on gross negligence, negligence, incompetence, and dishonest acts.

B. The conduct resulting in the California Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530 (2) (practicing the profession fraudulently);
2. New York Education Law §6530 (3) (negligence on more than one occasion);
3. New York Education Law §6530 (4) (gross negligence);
4. New York Education Law §6530 (5) (incompetence on more than one occasion);
5. New York Education Law §6530 (6) (gross negligence);
6. New York Education Law §6530 (20) (moral unfitness);
7. New York Education Law §6530 (21) (willfully making or filing a false report);

and/or




8. New York Education Law §6530 (32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

DATED: *Sept. 25*, 2002  
Albany, New York

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