



# 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*

# PUBLIC

July 21, 2003

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Lisa Jacobs, M.D.  
P.O. Box 488  
Weston, Massachusetts 02193

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The Harwood Building  
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Jude Brearton Mulvey, Esq.  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Division of Legal Affairs  
Corning Tower – 25<sup>th</sup> Floor  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Lisa Jacobs, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 03-184) 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.

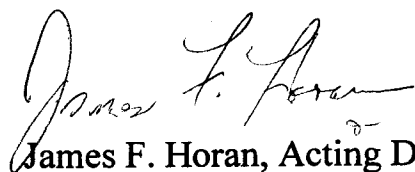
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in cursive script, appearing to read "James F. Horan", is written over a horizontal line.

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:djh  
Enclosure

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

**COPY**

**DETERMINATION**

**AND**

**ORDER**

**BPMC NO. 03-184**

**IN THE MATTER**

**OF**

**LISA JACOBS, M.D.,**

**Respondent**

The undersigned Hearing Committee (hereinafter referred to as "the Committee") consisting of **JOEL H. PAULL, D.D.S., M.D.**, Chairperson, **FRED S. LEVINSON, M.D.** and **FRANCES TARLTON** was duly designated and appointed by the State Board for Professional Medical Conduct (hereinafter referred to as "the State" or "Petitioner").

**JONATHAN BRANDES, ESQ.**, served as Administrative Law Judge. On June 17, 2003, this matter was transferred to Administrative Law Judge **FREDERICK ZIMMER, ESQ.**

The hearing was conducted pursuant to the provisions of Section 230(10) of the New York State Public Health Law and Sections 301-307, 401 and 501 of the New York State Administrative Procedure Act. The purpose of the hearing was to receive evidence concerning alleged violations of Section 6530 of the New York State Education Law by **LISA JACOBS, M.D.** (hereinafter referred to as "Respondent").

The Petitioner appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, **JUDE BREARTON MULVEY, ESQ.**, of Counsel. Respondent appeared by **WOOD AND SCHER** by **WILLIAM L. WOOD, ESQ.**, of Counsel.

Witnesses were sworn or affirmed and examined. A stenographic record of the hearing was made. Exhibits were received in evidence and made a part of the record. There were numerous motions and/or briefs which are all part of the record herein whether submitted to the Committee or not. The Committee has considered the entire evidentiary record, including all exhibits and testimony, in the above captioned matter and hereby renders its decision.

#### **RECORD OF PROCEEDINGS**

Date of Service of Notice of Hearing and Statement of Charges:	2/10/03
Respondent's Answer Dated:	2/14/03
Pre-Hearing Conference:	2/27/03
Hearing Date:	2/27/03
Deliberations Held:	4/28/03

#### **STATEMENT OF CHARGES**

The Statement of Charges (Petitioner's Exhibit 1) originally alleged seven specifications of professional misconduct. Factual Allegation E was withdrawn by the Petitioner at the pre-hearing conference in effect withdrawing the corresponding Third Specification of the Statement of Charges as well (Transcript of pre-hearing at pg. 7). The six remaining specifications include specifications of fraudulent practice, willfully making or filing a false report and conduct in the practice of medicine evidencing moral unfitness to practice medicine.

In lieu of entering her answer into evidence, a stipulation by Respondent was accepted at the pre-hearing conference to the effect that she denied the charges (Transcript of pre-hearing at pg. 15).

## **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Unless otherwise noted, all Findings and Conclusions herein are the unanimous determination of the Committee. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Committee in arriving at a particular finding. All Findings of Fact and Conclusions made by the Committee were established by a preponderance of the evidence.

Having heard testimony and considered evidence presented by the Petitioner and Respondent respectively, the Committee hereby makes the following Findings of Fact;

1. The Respondent, Lisa Jacobs, was employed as a medical resident during the 1990s (uncontested).
2. Respondent attended Boston University Medical School ("BU Med") from on or about August 28, 1989 through on or about November 21, 1992 (Transcript at pages ["T."] 5-6, 54-55, 66-71; Petitioner's Exhibit ["Pet's Ex."] 1, Statement of Charges, Factual Allegation ["SOC"] A.2).
3. Respondent was academically suspended from BU Med from on or about November 29, 1991 to on or about December 17, 1992 (T. 5-6, 54-55, 66-71; Pet's Ex. 1, SOC A.3).
4. Respondent returned to BU Med after the completion of her one year suspension and attended medical school there from on or about January 25, 1993 through on or about March 2, 1993 (T. 5-6, 54-55, 66-71; Pet's Ex. 1, SOC A.4).
5. Respondent was academically dismissed from BU Med on or about March 18,

1993 (T. 5-6, 54-55, 66-71; Pet's Ex. 1, SOC A.4).

6. Respondent obtained her medical degree from the Universite De Liege, Belgium ("De Liege") in 1996 after attending De Liege from November 1, 1993 through June 1996 (Stipulation at pg. 16-17 of transcript of pre-hearing conference).
7. Respondent signed and submitted an Application for Primary Care Residency, dated October 27, 1995, to Strong Memorial Hospital, Rochester, New York ("Strong"), and was thereafter employed as a resident at Strong from on or about July 1, 1996 through on or about August 30, 1996 (T.66-71; Pet. Ex. 1, SOC A and Ex. 4, pgs. 17-18, 59-66).
8. Respondent acknowledged in writing that "I have read and I understand the instructions for the completion of this application. I certify that the information submitted on these application materials is complete and correct to the best of my knowledge: I understand that any false or missing information may disqualify me for this position" (T. 66-71; Pet's Ex.1, SOC A and Ex. 4, pg. 59).
9. In completing the section entitled "Medical Education" on her application, Respondent represented that she matriculated at De Liege in September 1989 and graduated in June 1996. In fact, Respondent had not entered De Liege until on or about November 1993 following her dismissal from BU Med. Respondent knew such facts when she completed and submitted the application (T. 66-71; Pet. Ex. 1, SOC A.1 and Ex. 4, pg. 61).
10. In completing the section entitled "Medical Education" on her application, Respondent failed to inform Strong representatives that she had attended BU Med for more than three years, from on or about August 28, 1989 through on or about November 21, 1992, that she had been academically suspended from BU

Med from on or about November 29, 1991 through on or about December 17, 1992, that she had, thereafter, attended BU Med from on or about January 25, 1993 through on or about March 2, 1993 and that she had been academically dismissed from BU Med on or about March 18, 1993. Respondent knew such facts when she signed and submitted the application (T. 66-71; Pet. Ex. 1, SOC A.2, A.3 and A.4 and Ex. 4, pgs. 59-66).

11. Respondent deliberately excluded references to BU Med in order to place herself in the best light possible and eliminate unfavorable information from the application materials (T. 59).
12. Respondent resigned from Strong on or about August 30, 1996 after the Director of the Primary Care Program confronted her with information that she had falsified information on her application (T. 66-71; Pet. Ex. 1, SOC B.5, Ex. 4, pgs. 17-18, 41).
13. Respondent signed and completed a Universal Application for Residency on or about October of 1995 and submitted it to Albany Medical College sometime prior to December 4, 1995. She also completed a "Resident/Fellow" information form dated on or about October 4, 1996 for the Albany Medical Center Hospital ("AMCH") (T. 66-71; Pet's Ex. 1, SOC B).
14. In completing the section of the application entitled "Medical Education", Respondent failed to inform AMCH representatives that she had attended BU Med for more than three years from on or about August 28, 1989 through on or about November 21, 1992, that she had been academically suspended from BU Med for one year from on about November 29, 1991 through on or about December 17, 1992, that she had attended BU Med from on or about January

- 25, 1993 through on about March 2, 1993 and that she had been academically dismissed on or about March 18, 1993. Respondent knew such facts when she signed and submitted the application (T. 66-71; Pet. Ex. 1, SOC B.1-B.4).
15. In completing the Resident/Fellow Information form dated October 4, 1996, Respondent deliberately failed to reveal her attendance at BU Med and her suspension and dismissal therefrom. Respondent knew such facts when she completed and submitted the form (66-71; Pet's Ex. 1, SOC B.4).
  16. In completing the section of the Resident/Fellow Information form entitled "Prior Residency/Fellowship Experience in Accredited Programs in the U.S.", Respondent failed to inform AMCH representatives that she had participated in a residency program at Strong from on or about July 1, 1996 through on or about August 30, 1996 and that she had resigned from the residency. Respondent knew such facts when she completed and submitted the form (T. 66-71; Pet's Ex. 1, SOC B.5).
  17. Respondent completed one year of a residency training program in internal medicine at AMCH from on or about October 7, 1996, a little more than one month after resigning from Strong, through on or about October 6, 1997 (T. 66-71; Pet. Ex. 1, SOC B).
  18. While still on record as attending AMCH, Respondent in September 1997, was employed as a radiology resident at St. Vincent's Hospital, Worcester, Massachusetts ("St. Vincent's") (T. 66-71; Pet's Ex. 1, SOC C.1, D.2.b and Ex. 7, 8).
  19. Respondent's employment at St. Vincent's was terminated on September 24, 1997 based upon, among other things, her failure to disclose her expulsion from



BU Med and her "representations and apparent omission of information on her written application to the Massachusetts Board of Registration in Medicine (Pet's Ex. 8).

20. Respondent, on or about November 5, 1997, completed a "Resident/Physician Information sheet" in lieu of a formal application to become a radiology/oncology resident at the State University of New York at Buffalo Graduate Medical and Dental Educational Consortium/Roswell Cancer Institute, Buffalo, New York ("Roswell") and was, thereafter, employed as a radiology/oncology resident at Roswell from on or about November 5, 1997 through on or about January 21, 1998 (T. 66-71; Pet's Ex. 1, SOC C).
21. Respondent, in completing the section entitled "Residency Program where you trained or are in training", answered "Roswell Park; Period of training 11/1/97 [to] 11/1/2001" and failed to disclose to Roswell representatives 1) that she was a resident at Strong from on or about July 1, 1996 to on or about August 30, 1996 2) that she was a resident at AMCH from on or about October 7, 1996 to on or about October 6, 1997 and 3) that she was a radiology resident on or about the month of September 1997 at St. Vincent's Hospital. Respondent knew such facts when she completed and submitted the information sheet (T. 66-71; Pet's Ex. 1, SOC C.1).
22. Respondent was employed as a resident at the University of Wisconsin Hospitals and Clinics Authority ("Wisconsin") from July 1, 1998 through October 19, 1998 (T. 66-71; Pet's Ex. 1, SOC D.2.b., Ex. 13 and 14;).
23. By an October 19, 1998 letter, Respondent was summarily terminated from Wisconsin resulting from "the incomplete and misleading information in her

application papers which rendered them fraudulent, invalidating the appointment which was granted in reliance on her information being complete and accurate." Respondent was further advised that she was terminated due to her severely deficient medical knowledge base, performance level and interpersonal skills demonstrated (Pet. Ex. 14).

24. Respondent filed a Universal Application for Residency, dated October 15, 1998, to be employed as a resident at St. Vincent's Medical Center/Sisters of Charity Medical Center, Staten Island, New York ("Sisters"). Respondent was thereafter employed as a resident at Sisters from on or about July 1, 1999 to on or about November 4, 1999 (T. 66-71; Pet's Ex. 1, SOC D and Ex. 9).
25. Respondent failed to reveal in her application that she had been suspended and dismissed from BU Med. Respondent knew such facts when she completed and filed the application (T. 66-71; Pet's Ex. 1, SOC D.1 and Ex. 9).
26. Respondent provided written correspondence with the Sisters' application materials in which she discussed her educational background. Respondent represented that "I did my first two years at the Boston University School of Medicine where my father was an Associate Professor. My father died unexpectedly of a myocardial infarction in my hands. I had a year off. My family no longer had my father's salary. I did my last two years at the University of Liege School of Medicine in Liege Belgium where tuition was reasonably priced..." Respondent deliberately failed to inform Sisters representatives that, in fact, she had also been academically suspended from BU Med from on or about November 29, 1991 through on or about December 17, 1992 and then after completing her one year suspension and returning to BU Med, on or about

January 25, 1993, she was academically dismissed from BU Med on or about March 18, 1993. Respondent knew such facts when she provided the written correspondence (T. 66-71; Pet. Ex. 1, SOC D.2.a, Ex. 9, pg. 46).

27. Respondent's parents never contributed financially to pay for Respondent's medical school tuition (T. 34; Pet's Ex. 12).

28. Respondent, in her correspondence, when discussing her professional history, deliberately withheld certain portions of her employment history. She wrote "I did my Internal Medicine Internship at the Albany Medical Center ("AMCH") and the Veteran's Affairs Medical Center (Albany, New York). I was a PGY-2 resident physician in Radiation Oncology, but the field was not for me. I desired to be in a field with a less technologic focus and a greater humanitarian focus." Respondent deliberately failed to disclose to Sisters representatives that she had also been a primary care resident at Strong from on or about July 1, 1996 through August 30, 1996, that she was a resident at St. Vincent's on or about September 1997, that she was a resident at Roswell from on or about November 1997 through on or about January 1998, that she was a resident at Wisconsin from on or about July 1, 1998 through on or about October 19, 1998 and that she was terminated from Wisconsin in 1998. Respondent knew such facts when she wrote and submitted her correspondence (T. 66-71; Pet. Ex. 1, SOC D.2.b and Ex. 9, pg. 46).

### **CONCLUSIONS OF LAW**

The Committee makes the following Conclusions of Law pursuant to the factual findings listed above. All conclusions resulted from a unanimous vote of the Committee unless noted otherwise.

Initially, the Committee notes that Respondent was employed as a medical resident in New York State at the time the allegations occurred. Although as the Statement of Charges acknowledges, there was no issuance of a license to Respondent by the New York State Education Department, Respondent is nevertheless defined as a "licensee" by virtue of Public Health Law §230(7) which defines a "licensee" as including medical residents. Therefore, even if Respondent was never formally issued a license to practice medicine, Respondent nevertheless is a licensee. Public Health Law §230-a which sets forth penalties applicable to medical misconduct applies to former licensees as well as present licensees. Therefore, Respondent is subject to the jurisdiction of the Department regardless of whether she is a current or a former medical resident.

Respondent is charged with six specifications alleging professional misconduct within the meaning of Education Law §6530. §6530 sets forth numerous forms of conduct which constitute professional misconduct, but does not provide definitions of the various types of misconduct. A memorandum, dated November 25, 1999, prepared by the General Counsel for the Department of Health, entitled "Definitions of Professional Misconduct Under the New York State Education Law " sets forth a suggested definition for the fraudulent practice of medicine which the Committee utilized. The fraudulent practice of medicine is the intentional misrepresentation or concealment of a known fact, made in some connection with the practice of medicine and with the intent to deceive. Choudhry v. Sobol ("Choudhry"), 170 A.D. 2d 893, 566 N.Y.S. 2d 723 (3d Dept. 1991) citing Brestin v. Commissioner of Education ("Brestin") 116 A.D. 2d 357, 501 N.Y.S. 2d 923 (3d Dept. 1986) (dentistry). To sustain a charge that a licensee has engaged in the fraudulent practice of medicine, the Committee must find that 1)a false representation was made by the licensee, whether by words, conduct or concealment of that which should have been

disclosed, 2) the licensee knew the representation was false, and 3) the licensee intended to mislead through the false representation. Sherman v. Board of Regents, 24 A.D. 2d 315, 266 N.Y.S. 2d 39 (3d Dept. 1966), aff'd. 19 N.Y. 2d 679, 278 N.Y.S. 2d 870 (1967). The licensee's knowledge and intent may properly be inferred from facts found by the Committee, but the Committee must specifically state the inferences it is drawing regarding knowledge and intent, Choudhry, supra at 894 citing Brestin. Fraudulent intent may be inferred from evidence that the licensee was aware of the true state of facts at the time false responses were given. Saldanha v. DeBuono, 256 A.D.2d 935, 681 N.Y.S. 2d 874 (3d Dept. 1998).

Giving false testimony in connection with the practice of medicine constitutes fraudulent practice. Such false testimony may relate to the licensee's credentials (Lazachek v. Board of Regents, 101 A.D.2d 639, 475 N.Y.S. 2d 160 (3d Dept. 1984)). False statements made on an application for hospital privileges have also been found to constitute fraudulent practice. Kim v. Board of Regents, 172 A.D. 2d 880, 567 N.Y.S. 2d 949 (3d Dept. 1991), appeal denied, 78 N.Y. 2d 856, 574 N.Y.S. 2d 938 (1991).

While "the mere making or filing of a false report, without intent or knowledge of the falsity..." (Brestin, supra at 359) does not constitute fraudulent practice, the Committee is free to reject, as not credible, 1) a licensee's mitigating explanations Kenna v. Ambach, 61 A.D.2d 1091, 403 N.Y.S. 2d 351 (3d Dept., 1978) ("Kenna"), 2) a claim of mere "mistake" (Dilluvio v. Board of Regents, 60 A.D. 2d 699, 400 N.Y.S. 2d 871 (3d Dept., 1977)) or a claim that negligence was the cause of the misrepresentation (Schmelzer v. Ambach, 86 A.D. 2d 901, 448 N.Y.S. 2d 270 (3d Dept., 1982)). The Committee must base its inferences on that which it accepts as the truth. Klein v. Sobol, 167 A.D. 2d 625, 562 N.Y.S. 2d 856 (3d Dept., 1990), appeal denied at 77 N.Y. 2d 809 (1991) (podiatry) citing Ragazzino v.

Ross, 52 N.Y. 2d 858, 437 N.Y.S. 2d 74 (1981).

There need not be either actual reliance on or actual injury caused by the misrepresentation to constitute the fraudulent practice of medicine. The focus is on the licensee's conduct in attempting to induce reliance, and not on whether the physician succeeds in causing reliance or whether any gain to the physician occurs to the detriment of the patient. There is no requirement that someone actually be misled, as long as the intent of "misrepresentation or concealment of fact" is present. Matter of Tompkins v. Board of Regents, 299 N.Y. 469, 476, 87 N.E. 2d 517 (1949) reversing 274 A.D. 354, 85 N.Y.S. 2d 140 (3d Dept. 1948).

Fraud can also be established when a person makes a statement or representation with reckless disregard as to its truth. See Kountze v. Kennedy, 147 N.Y. 124, 129-130 (1895); State Street Trust Co. v. Ernst, 278 N.Y. 104, 112 (1938). This is so because representation of a fact to another carries with it the implied assurance that the party has adequate knowledge to make the assertion. Kountze, supra at 130; State Street Trust Co., supra at 112.

Respondent was the sole witness to testify at this proceeding. After extensive direct, cross, redirect, recross and redirect examination of Respondent concerning Factual Allegation A, Respondent made a motion in which she admitted each of the Factual Allegations, their respective sub-allegations and every assertion in the Statement of Charges and stated that she would testify in the same manner for Factual Allegations B through D as she did for Factual Allegation A (T. 66-71). Respondent was represented by counsel at the hearing. Her admissions were entered into voluntarily after the Administrative Law Judge fully advised her of her rights and the consequences of her admissions (T. 66-71).

Therefore, the Committee finds Respondent committed each of the acts set forth in each of the Factual Allegations in the Statement of Charges including the sub-allegations, as if the Petitioner had proven each of them by a preponderance of the evidence. The Findings of Fact set forth above are largely based upon Respondent's admission of the Factual Allegations at the hearing. Based upon Respondent's admissions at the hearing, the Committee sustains all of the Factual Allegations and their subparts with the exception of that part of Factual Allegation D.1 which alleges that Respondent failed to reveal her attendance at BU on the Sisters' application. The Sisters' application (Pet's Ex. 9, Pgs. 44-46) demonstrates that Respondent did disclose that she attended BU although she did not disclose her suspension and dismissal from BU.

The Committee next considered whether the specifications should be sustained and concluded that Respondent deliberately and knowingly provided false and incomplete information to Strong, AMCH, St. Vincent's, Roswell, Wisconsin and Sisters thereby rendering her submission of written materials fraudulent.

As stated in the above referenced Definitions, knowledge of a false representation and intent to deceive are necessary elements to support a finding of fraudulent practice. Fraudulent practice and willfully filing false reports are demonstrated here by Respondent's having intentionally failed to provide accurate information on applications. As noted above, intentionally filing false statements on hospital applications with intent to deceive constitutes the fraudulent practice of medicine. Here, Respondent admitted she filed applications and knew that the information contained therein was false. The Committee concluded that Respondent had the requisite intent to deceive in that it was to her benefit not to disclose her problems at the various institutions she attended if she wished to be accepted to the various programs she applied to. Respondent, herself, testified that she

eliminated references to BU Med in her curriculum vitae attached to the Strong application to put herself "in the best light possible" (T. 58-59). Accordingly, the Committee sustains the specifications of fraudulent practice and of willfully filing false reports.

The Committee sustains the specifications of moral unfitness to practice medicine. To sustain an allegation of moral unfitness, the Respondent must have been shown to have committed acts which "evidence moral unfitness". There is a distinction between a finding that an act "evidences moral unfitness" and a finding that a particular person is, in fact, morally unfit. In a proceeding before the State Board for Professional Medical Conduct, the Hearing Committee is asked to decide if certain conduct is suggestive of, or would tend to prove moral unfitness. The Hearing Committee is not called upon to make an overall judgment regarding a Respondent's moral character.

The standard for moral unfitness in the practice of medicine is twofold. First, there may be a finding that the accused has violated the public trust which is bestowed by virtue of his/her licensure as a physician. Physicians have privileges that are available solely due to the fact that one is a physician. The public places great trust in physicians solely based on the fact that they are physicians. For instance, physicians have access to controlled substances and billing privileges that are available to them solely because they are physicians. Patients are asked to place themselves in potentially compromising positions with physicians, such as when they disrobe for examination or treatment. Hence, it is expected that a physician will not violate the trust the public has bestowed on him or her by virtue of his/her professional status. Second, moral unfitness can be seen as a violation of the moral standards of the medical community which the Hearing Committee, as delegated members of that community, represent.

Here, Respondent's conduct consisted of filing false information on hospital



applications. Such conduct violates the trust the public bestows upon the medical profession and also violates the moral standards of the medical community. Organizations such as hospitals depend upon the integrity of physicians to provide accurate information and Respondent repeatedly violated this trust.

### **DISCUSSION**

The Committee was instructed that although it could find Respondent's admissions dispositive in determining whether or not to sustain the various factual allegations, Respondent could submit information for the purpose of mitigating any penalty imposed. Respondent submitted a post-hearing brief which the Committee reviewed. Respondent's counsel reiterated in the post-hearing brief his statement made on the record at the hearing (T.66) to the effect that Respondent's misstatements arose from her attempt to suppress information about her difficulties at BU after successfully completing medical school at De Liege. Essentially, it was argued that Respondent intended to disclose her record at BU once she had been accepted into a program in the United States. This led to a cycle whereby once Respondent was terminated from a program for failing to disclose her experience at BU, she then would have to cover up her attendance at that subsequent program.

In assessing Respondent's testimony and belated admission of the Factual Allegations as well as the post-hearing brief, the Committee found no basis for mitigation. Respondent's history of deception, as well as the evasive nature of her testimony prior to her admissions, convinced the Committee of the Respondent's grave misconduct.

Respondent's actions reflect her belief in her right to ignore fundamental rules of decorum, not to mention professional ethics.

## PENALTY

Pursuant to the Findings of Fact, Conclusions of Law and Discussion set forth above and taking all of the facts, details, circumstances and particulars in this matter into consideration, the Committee unanimously determines that the following resolution is the appropriate action under the circumstances.

Upon due consideration of the penalties available pursuant to statute, and taking into account that Respondent's status as a former resident precludes certain penalties such as revocation, the Committee unanimously concludes that an Order should be issued that Respondent be stricken from the roster of licensees by the Board of Regents (New York Education Law §6502) and that a limitation be placed on the issuance of any registration or of a further license to Respondent thereby precluding her from being registered or obtaining a license. The Committee firmly believes that Respondent's character is so lacking that she must never be admitted to any medical program or in any way practice medicine in New York State ever again. It is the Committee's strong hope that its views be taken into account should the Education Department ever consider an application by Respondent to be restored to the practice of medicine.

By execution of this Determination and Order, all members of the Committee certify that they have considered the complete evidentiary record of this proceeding, including all exhibits and testimony.

## ORDER

### **IT IS HEREBY ORDERED THAT:**

1. The First, Second and Fourth through Seventh Specifications of professional misconduct are **SUSTAINED**;

2. Respondent's name shall be **STRICKEN** from the roster of licensees kept by the Board of Regents;
3. Respondent shall be **LIMITED FROM BEING ISSUED ANY FUTURE REGISTRATION OR ANY FURTHER LICENSE** to practice medicine, it being the recommendation of the Committee to the Education Department that such limitation be of a permanent nature; and
3. This **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

**DATED: Eggertsville, New York**

*July 18*, 2003



**JOEL H. PAULL, D.D.S., M.D.,**  
**Chairperson**

**FRED S. LEVINSON, M.D.**  
**FRANCES TARLTON**

TO: Jude Brearton Mulvey, Esq.  
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# **APPENDIX 1**

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

IN THE MATTER  
OF  
LISA JACOBS, M.D.

STATEMENT  
OF  
CHARGES

LISA JACOBS, M.D., Respondent, is not authorized to practice medicine in New York State. There has been no issuance of a license by the New York State Education Department. Respondent was employed as a resident physician at Strong Memorial Hospital in Rochester, New York, at Albany Medical Center Hospital, Albany, New York, at Roswell Park SUNY at Buffalo, Buffalo, New York, and at St. Vincent's Medical Center/Sisters of Charity Medical Center, Staten Island, New York.

**FACTUAL ALLEGATIONS**

- A. Respondent, on or about October 27, 1995, signed and submitted an "Application for a Primary Care Residency" with Strong Memorial Hospital, Rochester, New York. Respondent was thereafter employed as a Resident at Strong from on or about July 1, 1996 through on or about August 30, 1996. In the Application, Respondent acknowledged in writing that:

I have read and understand the instructions for the completion of this application. I certify that the information submitted on these application materials is complete and to the best of my knowledge, I understand that any false or missing information may disqualify me from this position.

1. In completing the section entitled "Medical Education," Respondent represented that she matriculated at the Universite' de Liege, Liege, Belgium in September 1989 and graduated in June 1996. In fact, Respondent did not enter the Universite' de Liege until on or about November 1993, following her dismissal from Boston University Medical School ("Boston University"), and Respondent knew such facts.
  2. In completing the section entitled "Medical Education," Respondent failed to inform Strong representatives that she had attended Boston University for more than three (3) years, from on or about August 28, 1989 through on or about November 21, 1992, and Respondent knew such facts.
  3. In completing the section entitled "Medical Education," Respondent failed to inform Strong representatives that she had been academically suspended from Boston University from on or about November 29, 1991 through on or about December 17, 1992, and Respondent knew such facts.
  4. In completing the section entitled "Medical Education," Respondent failed to inform Strong representatives that she had attended Boston University from on or about January 25, 1993 through on or about March 2, 1993, and/or the fact that she had been academically dismissed from Boston University on or about March 18, 1993, and Respondent knew such facts.
- B. Respondent, on or about October 1995, signed and completed a Universal Application for Residency which she submitted to Albany Medical College sometime prior to December 4, 1995. Respondent also completed a "Resident/Fellow" information form for the Albany Medical Center Hospital ("AMCH") dated on or about October 4, 1996. Respondent thereafter completed a

one year of a residency training program in Internal Medicine at AMCH from on or about October 7, 1996 through on or about October 6, 1997.

1. In completing the section entitled "Medical Education," Respondent failed to inform AMCH representatives that she had attended Boston University for more than three (3) years, from on or about August 28, 1989 through on or about November 21, 1992, and Respondent knew such facts.
2. In completing the section entitled "Medical Education," Respondent failed to inform AMCH representatives that she had been academically suspended from Boston University from on or about November 29, 1991 through on or about December 17, 1992, and Respondent knew such facts.
3. In completing the section entitled "Medical Education," Respondent failed to inform AMCH representatives that she had attended Boston University from on or about January 25, 1993 through on or about March 2, 1993, and/or the fact that she had been academically dismissed from Boston University on or about March 18, 1993, and Respondent knew such facts.
4. In completing a Resident/Fellow Information form dated October 4, 1996 Respondent deliberately failed to reveal her attendance at Boston University and/or her suspension and/or her dismissal from Boston University, and Respondent knew such facts.
5. In completing the section of the Resident/Fellow Information form entitled "Prior Residency/Fellowship Experience in Accredited Programs in the U.S.," Respondent failed to inform AMCH representatives that (1) she had participated in a residency program at Strong Memorial Hospital from on or



about July 1, 1996 through on or about August 30, 1996 and/or (2) that she had been relieved of clinical responsibilities at Strong Memorial Hospital and/or resigned from the residency, and Respondent knew such facts.

- C. Respondent, on or about November 5, 1997, completed a "Resident/Physician Information sheet" in lieu of a formal application to become a Radiology/Oncology Resident at the State University of New York at Buffalo Graduate Medical and Dental Educational Consortium/Roswell Cancer Institute ("Roswell") in Buffalo, New York. Respondent was thereafter employed as a Radiology/Oncology Resident at Roswell from on or about November 5, 1997 through on or about January 21, 1998.
1. In completing the section entitled, "Residency Program where you trained or are in training," Respondent answered "Roswell Park; Period of training 11/1/97 [to] 11/1/2001" and failed to disclose to Roswell representatives (1) that she was a resident at Strong Hospital from on or about July 1, 1996 to on or about August 30, 1996, and/or (2) that she was a resident at AMCH from on or about October 7, 1996 to on or about October 6, 1997, and/or (3) that she was a radiology resident on or about the month of September 1997 at St. Vincent's Hospital, Worcester, Massachusetts, and Respondent knew such facts.
- D. Respondent, by application dated March 15, 1998, filed an application to be employed as a Resident at St. Vincent's Medical Center/Sisters of Charity Medical Center ("Sisters of Charity"), Staten Island, New York. Respondent was thereafter employed as a Resident at Sisters of Charity from on or about July 1, 1999 to on or about November 4, 1999.

1. Respondent failed to reveal her prior medical school attendance at Boston University and/or her suspension and/or her dismissal from Boston University in Respondent's Universal Application for Residency and Respondent knew such facts.
2. Respondent provided written correspondence with the Sisters of Charity application materials.

- a. In that correspondence Respondent discussed her educational background. Respondent represented that:

"I did my first two years at the Boston University School of Medicine where my father was an Associate Professor. My father died unexpectedly of a myocardial infarction in my hands. I had a year off. My family no longer had my father's salary. I did my last two years at the University of Liege School of Medicine, where tuition was reasonably priced."

Respondent deliberately failed to inform Sisters of Charity representatives that, in fact, she had also been academically suspended from Boston University from on or about November 29, 1991 through on or about December 17, 1992; and/or she had been academically dismissed from Boston University on or about March 18, 1993, and Respondent knew such facts.

- b. In that correspondence, Respondent discussed her professional history. She deliberately withheld certain portions of her employment history. Respondent wrote:

"I did my Internal Medicine Internship at [AMCH]. I was a PGY-2 resident physician in Radiation Oncology, but the field was not for me. I desired to be in a field with a less technologic focus and a greater humanitarian focus."

Respondent deliberately failed to disclose to Sisters of Charity representatives that she had also been a primary care resident at Strong from on or about July 1, 1996 through August 30, 1996 and/or that she was a resident at St. Vincent's on or about September 1997

and/or that she was a resident at Roswell from on or about November 1997 through on or about January 1998 and/or that she was a resident at the University of Wisconsin Hospitals and Clinics Authority ("Wisconsin") from on or about July 1, 1998 through on or about October 19, 1998 and/or that she was terminated from Wisconsin in 1998, and Respondent knew such facts.

E. ~~In Matter of Lisa A. Jacobs v St. Vincent's Catholic Medical Center of New York, et. al., Respondent revealed the following data without the consent of individual patients:~~

1. ~~That Patient A required NPH and regular insulin evening doses;~~
2. ~~That a GH was ordered for Patient B on 10/1/99 and/or that the GH was not done and/or that plasma dehydroepian-drosterone sulfate and plasma testosterone were ordered and/or not done;~~
3. ~~That a hepatitis profile and/or hepatitis panel was ordered for Patient C;~~
4. ~~That Patient D received a foley catheter; and/or~~
5. ~~That a CBC, BMP, Calcium, Phosphate, Magnesium, EKG, CXR, and TV was ordered for Patient E.~~

~~APG~~  
2/27/03  
withdrawn.

**SPECIFICATIONS**  
**FIRST SPECIFICATION**  
**FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law § 6530(2) by practicing the profession fraudulently or beyond its authorized scope, in the Petitioner charges:

1. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4, B and B.1, B and B.2, B and B.3, B and B.4, and/or B and B.5, C and C.1, D and D.1, D and D.2(a), and/or D and D.2(b)

**SECOND SPECIFICATION**  
**WILLFULLY MAKING OR FILING A FALSE REPORT**

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law § 6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filing, in that Petitioner charges:

2. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4, B and B.1, B and B.2, B and B.3, B and B.4, and/or B and B.5, C and C.1, D and D.1, D and D.2(a), and/or D and D.2(b)

**THIRD SPECIFICATION**  
**REVEALING PERSONALLY IDENTIFIABLE DATA**

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law § 6530(23) by revealing personally identifiable facts, data or information

obtained in a professional capacity without the prior consent of the patient, in that Petitioner charges:

3. The facts in Paragraphs E and E.1, E and E.2, E and E.3, E and E.4, and/or E and E.5.

#### FOURTH THROUGH SEVENTH SPECIFICATIONS

##### MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice in that Petitioner charges:

4. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4;
5. The facts in Paragraphs B and B.1, B and B.2, B and B.3, B and B.4, and/or B and B.5;
6. The facts in Paragraphs C and C.1;
7. The facts in Paragraphs D and D.1, D and D.2(a), and/or D and D.2(b).

DATED: *January 27, 2003*  
Albany, New York

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