



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** March 10, 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

Ceabert A. Griffith, P.A.  
3021 Avenue I  
Apartment E8  
Brooklyn, New York 11210

Ralph A. Erbaio, Jr.  
Hofmann, Einiger & Polland, PLLC  
220 East 42<sup>nd</sup> Street  
New York, New York 10017

Ceabert A. Griffith, P.A.  
10407 Avenue M  
Brooklyn, New York 11236

**RE: In the Matter of Ceabert A. Griffith, ~~M.D.~~ P.A.**

Dear Parties:

Enclosed please find the Determination and Order (No. 03-65) 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 black ink, appearing to read "Tyone T. Butler". The signature is fluid and cursive, with the first name being the most prominent.

Tyone T. Butler, Director  
Bureau of Adjudication

TTB:cah  
Enclosure

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

**COPY**

IN THE MATTER

OF

**CEABERT A. GRIFFITH, P.A.**

DETERMINATION

AND

ORDER

BPMC #03-65

A hearing was held on February 19, 2003, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order and Notice of Hearing, dated January 17, 2003, and a Statement of Charges, dated January 16, 2003, were served upon the Respondent, **Ceabert A. Griffith, P.A.** **Joel H. Paull, D.D.S., M.D., J.D.**, Chairperson, **Teresa S. Briggs, M.D., Ph.D.**, and **James P. Milstein, J.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. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, and **Paul Robert Maher, Esq.**, of Counsel. The Respondent appeared in person and was represented by Hoffman Einiger & Polland, 220 East 42<sup>nd</sup> Street, New York, New York 10017, **Ralph A. Erbaio, Jr., Esq.**, of Counsel.

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), which establishes procedures for bringing charges of professional medical misconduct against a physician or a physician's assistant and for conducting an administrative hearing to resolve such charges. In this case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(2), 6530(9)(a)(i), 6530(20) and 6530(21). Copies of the Commissioner's Order and Notice of Hearing and the Statement of Charges are attached to this Determination and Order as Appendix 1.

### WITNESSES

For the Petitioner:	None
For the Respondent:	Ceabert A. Griffith, P.A. Roland Purcell, 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. Ceabert A. Griffith, P.A., the Respondent, was authorized to practice medicine as a physician's assistant in New York State on January 2, 1997, by the issuance of license number 005629 by the New York State Education Department (Petitioner's Ex. 4).

2. On August 26, 1993, in the City Court of Watertown, New York, the Respondent was charged with Driving While Intoxicated, in violation of Vehicle and Traffic

Law Section 1192(2) and (3), a misdemeanor, and, on August 26, 1993, was found guilty, based on a plea of guilty, of Driving While Ability Impaired, in violation of Vehicle and Traffic Law Section 1192(1), a violation, and was sentenced to a \$300.00 fine and a 90 day suspension of his driver's license (Petitioner's Ex. 5).

3. On December 6, 1995, the Respondent prepared and submitted to the Catholic Medical Center of Brooklyn and Queens an Application for Initial Appointment wherein he falsely answered "No" to the question, "Have you ever been the subject of a criminal investigation and/or have there ever been any criminal charges brought against you?" (Petitioner's Ex. 6).

4. On September 4, 1996, in the Criminal Court of the City of New York, Kings County, the Respondent was found guilty, based on a plea of guilty, of Driving While Intoxicated, in violation of Vehicle and Traffic Law Section 1192(3), a misdemeanor, and on October 29, 1996, was sentenced to revocation of his driver's license, a drinking driver referral, three years probation, a \$500.00 fine and a \$90.00 surcharge (Petitioner's Ex. 7).

5. On March 7, 1998, the Respondent prepared and submitted to the Catholic Medical Center of Brooklyn and Queens a Medical/Adjunct Staff Reappointment Application, wherein he falsely answered "No" to the question, "Have you ever been the subject of a disciplinary/criminal proceeding or inquiry?" (Petitioner's Ex. 8).

6. On August 17, 1999, the Respondent prepared and submitted a Registration Remittance Document to the New York State Education Department, wherein he falsely answered "No" to the question, "Since you last filed a registration application:... Have you been convicted or charged with any crime (felony or misdemeanor) in any state or country, the disposition of which was other than acquittal or dismissal?" (Petitioner's Ex. 4).

7. On May 23, 2002, in the Supreme Court of the State of New York, County of Kings, the Respondent was found guilty, based on a plea of guilty, of two counts of Driving While Intoxicated, in violation of Vehicle and Traffic Law Section 1192(2), class E felonies, and on September 25, 2002, was sentenced to a six month license revocation, thirty days of incarceration, a \$1,000.00 fine and three years probation (Petitioner's Ex. 9).

**VOTE OF THE HEARING COMMITTEE**

**FIRST AND SECOND SPECIFICATIONS**

"Respondent violated New York Education Law Section 6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York state law..."

VOTE: Sustained (3-0)

**THIRD THROUGH FIFTH SPECIFICATIONS**

"Respondent violated New York Education Law Section 6530(2) by practicing the profession fraudulently..."

VOTE: Sustained (3-0)

**SIXTH THROUGH EIGHTH SPECIFICATIONS**

"Respondent violated New York Education Law Section 6530(20) by conduct in the practice of medicine which evidences moral unfitness to practice medicine..."

VOTE: Sustained (3-0)

**NINTH SPECIFICATION**

"Respondent violated New York Education Law Section 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..."

VOTE: Sustained (3-0)

## HEARING COMMITTEE DETERMINATION

The Respondent was convicted of Driving While Ability Impaired in 1993, misdemeanor Driving While Intoxicated in 1996, and felony Driving While Intoxicated in 2002 (for an arrest on December 9, 2001). To his credit, the Respondent has taken steps since his December 9, 2001, arrest to prevent a recurrence of such incidents. He has not consumed alcohol since the day of that arrest. In December of 2001, he entered a six-month alcoholism treatment program at New Directions, which he completed successfully (Respondent's Ex. B, L). During this six-month period, New Directions gave the Respondent urine tests for alcohol; he passed all the tests (Respondent's Ex. L). The Respondent attends Alcoholics Anonymous meetings at least once a week.

In addition to the criminal convictions, the Respondent is charged with intentionally making false statements on three applications. In December of 1995, despite the arrest in 1993 for misdemeanor Driving While Intoxicated, the Respondent answered on an employment application to the Catholic Medical Center of Brooklyn and Queens that he had never been the subject of a criminal investigation or criminal charges. In August of 1998, despite the 1993 arrest and the September 1996 misdemeanor Driving While Intoxicated conviction, the Respondent answered on a Catholic Medical Center of Brooklyn and Queens reappointment application that he had never been the subject of a criminal proceeding or inquiry. The Respondent also answered on a 1999 Registration Remittance Document that he had not been convicted or charged with any crime since his last registration application. His prior registration application was in 1995 (Petitioner's Ex. 4). The misdemeanor Driving While Intoxicated conviction was in 1996 (Petitioner's Ex. 7).

The Respondent testified that on each of these applications, he had believed that he was being asked about criminal proceedings related to his profession, not about

criminal proceedings on any type of criminal charge. According to this testimony, the "No" answers he gave to these questions were honest mistakes. The Hearing Committee does not find this testimony credible. The wording of the questions on all three applications does not state or even suggest that the subject of the questions is limited to crimes related to the Respondent's profession. In fact, the question on the Registration Remittance Document asks about the existence of convictions or charges on "any" crime.

While the Hearing Committee is disturbed by the Respondent's lack of candor regarding the three applications, the Hearing Committee is impressed by the Respondent's efforts to address his alcoholism. The Hearing Committee is also impressed with the evidence introduced by the Respondent regarding the quality of medical care he provides to his patients (the testimony of Dr. Purcell, Respondent's Ex. C, D, E, F, G, H, I, and J). Therefore, the Hearing Committee will not adopt the license revocation recommendation made by the Petitioner. The penalty described in the Order, below, should be sufficient to protect the patients of the State of New York.

### **ORDER**

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

1. The Respondent's license to practice medicine is suspended for five years. The suspension is stayed and will remain stayed as long as the Respondent remains in compliance with the terms of probation in paragraphs 3 through 17 of this Order.
2. The Respondent is placed on probation for five years under the terms and conditions of paragraphs 3 through 17 of this Order.
3. The 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. If, during the period of probation, the Respondent commits professional misconduct as enumerated in New York



State Education Law Sections 6530 or 6531, such act shall be deemed a violation of probation and an action may be taken against the Respondent's license pursuant to New York State Public Health Law Section 230(19).

4. The Respondent shall submit to the Petitioner's Office of Professional Medical Conduct ("OPMC") (New York State Department of Health, Office of Professional Medical Conduct, Hedley Park Place, 433 River Street, Troy, New York 12180) written notification of any change in employment and practice, professional and residential addresses and 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, within thirty days of each action.

5. The Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of the Respondent's compliance with the terms of this Order and shall personally meet with a person designated by OPMC when so requested.

6. The period of probation shall be tolled during periods in which the Respondent is not engaged in the active practice of medicine as a physician's assistant in New York State. The Respondent shall notify OPMC, in writing, if the Respondent is not currently engaged in or intends to leave active practice in New York State for a period of 30 consecutive days or more. The Respondent shall notify OPMC again prior to any change in that status. The period of probation shall resume and any terms of probation that were not fulfilled shall be fulfilled upon the Respondent's return to practice in New York State.

7. The Respondent shall remain drug and alcohol free.

8. The Respondent shall remain active in Alcoholics Anonymous or a similar self-help group.

9. The Respondent shall practice only when monitored by a qualified sobriety monitor and a qualified practice supervisor proposed by the Respondent and approved, in writing, by OPMC. The sobriety monitor shall not be a family member or a personal friend, or be in a professional relationship which would pose a conflict with monitoring responsibilities.

10. The Respondent shall ensure that the sobriety monitor and the practice supervisor are familiar with the Respondent's alcohol dependency and with the terms of this Order. The Respondent shall cause the sobriety monitor and the practice supervisor to report any deviation from compliance with the terms of this Order to OPMC within 24 hours of discovery, and to submit all required reports on a timely basis.

11. The Respondent shall submit, at the request of the sobriety monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of alcohol. Such screens are to be performed at a frequency of not less than once a week for the first twelve months of probation and afterward at a frequency to be proposed by the sobriety monitor and approved by OPMC. This monitoring will be on a random, seven days a week 24 hours a day basis. The Respondent shall cause the sobriety monitor to report to OPMC within 24 hours if a test is refused or delayed by the Respondent or a test is positive for alcohol.

12. The Respondent shall meet with the sobriety monitor on a monthly basis, or more often if deemed necessary by the sobriety monitor.

13. The Sobriety monitor shall submit quarterly reports to OPMC certifying the Respondent's sobriety. The reports shall include the results of all alcohol monitoring tests and an assessment of self-help group attendance.

14. The Respondent shall practice medicine as a physician's assistant only when supervised by the practice supervisor. The practice monitor shall be on-site in all

locations unless determined otherwise by OPMC. The practice supervisor shall be in a position to observe and assess regularly the Respondent's practice. The Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, questionable medical practice or possible misconduct to OPMC.

15. The Respondent shall cause the practice supervisor to review the Respondent's practice regarding the prescribing, administering, dispensing, inventorying and disposal of controlled substances.

16. The Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of the Respondent's practice, including the evaluation and treatment of patients, and the Respondent's prescribing practices. The reports shall also address the Respondent's physical and mental condition, any time and attendance problems, and whether there have been any failures to comply with any term of probation.

17. Upon receipt of evidence of noncompliance with the terms of probation, OPMC or the State Board for Professional Medical Conduct may initiate a violation of probation proceeding and/or any other proceeding against the Respondent as may be authorized by law.

18. The Respondent shall assume and bear all costs related to his compliance with this Order.

19. 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

March 6, 2003

  
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Joel H. Paul, D.D.S., M.D., ~~P.A.~~  
Chairperson

Teresa S. Briggs, M.D., Ph.D.  
James P. Milstein, J.D.

# **APPENDIX I**

ORIGINAL

EXHIBIT

1  
JNEV 2/19/03

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

IN THE MATTER  
OF  
CEABERT A. GRIFFITH, P.A.  
PM-02-11-5704-A

COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
HEARING

TO: CEABERT A. GRIFFITH, P.A.  
3021 Avenue I  
Apt. E8  
Brooklyn, NY 11210

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached, hereto, and made a part hereof, has determined that CEABERT A. GRIFFITH, P.A., Respondent, authorized to practice medicine as a Physician Assistant in New York state by a limited permit on or about December 10, 1995, and November 14, 1996, and on or about January 2, 1997, by license number 005629, has been found guilty, based on a plea of guilty, of committing acts constituting a felony under New York state law.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, CEABERT A. GRIFFITH, P.A., Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine. This order shall remain in effect

unless modified or vacated by the Commissioner of Health pursuant to N.Y. Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Public Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board of Professional Medical Conduct, on the 19<sup>th</sup> day of February, 2003 at 10:00 am in the forenoon at Hedley Park Place, 5<sup>th</sup> Floor, 433 River Street, Troy, New York and at such other adjourned dates, times, and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing

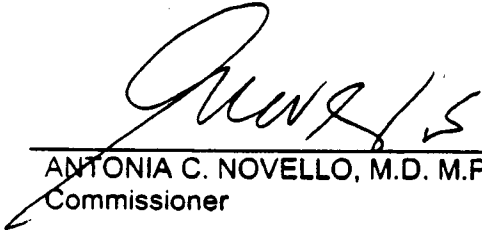
to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180 (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event that any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

**THESE PROCEEDINGS MAY RESULT IN A  
DETERMINATION THAT YOUR LICENSE TO  
PRACTICE MEDICINE IN NEW YORK STATE BE  
REVOKED OR SUSPENDED, AND/OR THAT  
YOU MAY BE FINED OR SUBJECT TO OTHER  
SANCTIONS SET FORTH IN NEW YORK PUBLIC  
HEALTH LAW SECTION 230-A. YOU ARE  
URGED TO OBTAIN AN ATTORNEY FOR THIS  
MATTER.**

DATED: Albany, New York

JANUARY 17, 2003

  
ANTONIA C. NOVELLO, M.D. M.P.H., Dr. P.H.,  
Commissioner



Inquires should be addressed to:

Robert Bogan  
Associate Counsel  
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  
CEABERT A. GRIFFITH, P.A.  
PM-02-11-5704-A

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STATEMENT  
OF  
CHARGES

CEABERT A. GRIFFITH, P.A., the Respondent, was authorized to practice medicine as a Physician Assistant in New York state by the issuance of a limited permit on or about December 10, 1995, and November 14, 1996, and on or about January 2, 1997, by the issuance of license number 005629 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about August 26, 1993, in the City Court of Watertown, New York, Respondent was charged with Driving while intoxicated, in violation of New York State Vehicle and Traffic Law, Section 1192(2) and (3), a misdemeanor, and on or about August 26, 1993, was found guilty, based on a plea of guilty, of a violation of Driving while ability impaired in violation of New York Vehicle and Traffic Law, Section 1192(1), a violation, and was sentenced to a \$300.00 fine and a 90 day suspension of his driver's license.

B. On or about December 6, 1995, Respondent prepared and submitted to the Catholic Medical Center of Brooklyn and Queens, Inc., an application for Initial Appointment wherein he falsely answered "No" to question "(114) Have you ever been the subject of a criminal investigation and/or have there ever been any criminal charges brought against you?"

C. On or about September 4, 1996, in the Criminal Court of the City of New York, County of Kings, New York, Respondent was found guilty, based on a plea of guilty, of Driving while intoxicated, in violation of New York State Vehicle and Traffic Law, Section 1192(3), a misdemeanor, and on or about October 29, 1996, was sentenced to revocation of his driver's license, drinking driver referral, three (3) years probation, a \$500.00 fine, and a \$90.00 surcharge.

D. On or about March 7, 1998, Respondent prepared and submitted to Catholic Medical Center of Brooklyn and Queens, Inc., a Medical/Adjunct Staff Reappointment Application, wherein he falsely answered "No" to question, "Have you ever been the subject of a disciplinary/criminal proceeding or inquiry?"

E. On or about August 17, 1999, Respondent prepared and submitted a Registration Remittance Document to the New York State Education Department, wherein he falsely answered "No" to the question, "2. Since you last filed a registration application: a. Have you been convicted or charged with any crime (felony or misdemeanor) in any state or country, the disposition of which was other than acquittal or dismissal?"

F. On or about May 23, 2002, in the Supreme Court of the State of New York, County of Kings, New York, Respondent was found guilty, based on a plea of guilty, of two (2) counts of Driving while intoxicated, in violation of New York State Vehicle and Traffic Law, Section 1192.2, class E felonies, and on or about September 25, 2002, was sentenced to six (6) months license revocation, thirty (30) days jail, a \$1,000.00 fine, and three (3) years probation.

### **SPECIFICATIONS**

#### **FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph C; and/or
2. The facts in Paragraph F.

#### **THIRD THROUGH FIFTH SPECIFICATIONS**

Respondent violated New York Education Law §6530(2) by practicing the profession fraudulently, in that Petitioner charges:

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

4. The facts in Paragraphs A, C, and/or D; and/or
5. The facts in Paragraphs C and/or E.

#### **SIXTH THROUGH EIGHTH SPECIFICATIONS**

Respondent violated New York Education Law §6530(20) by conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:


6. The facts in Paragraphs A and/or B;
7. The facts in Paragraphs A, C, and/or D; and/or
8. The facts in Paragraphs C and/or E.

#### **NINTH SPECIFICATION**

Respondent violated New York 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, in that Petitioner charges:

9. The facts in Paragraphs C and/or E.

DATED: *January 16*, 2003  
Albany, New York

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