



# 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**

April 19, 2004

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

John Douglas Edgar, Jr.  
51 East 73<sup>rd</sup> Street  
Suite 1A  
New York, New York 10021

John Douglas Edgar, Jr.  
393 Butter Lane  
Bridgehampton, New York 11932

Terrence Sheehan, Esq.  
NYS Department of Health  
5 Penn Plaza – 6<sup>th</sup> Floor  
New York, New York 10001

**RE: In the Matter of John Douglas Edgar, Jr. M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 04-82) 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.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct  
New York State Department of Health  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

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.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

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.

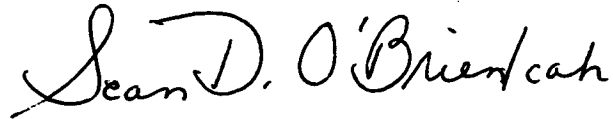
The notice of review served on the Administrative Review Board should be forwarded to:

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 that reads "Sean D. O'Brien" followed by a slanted "cah" which likely stands for "Cahill".

Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:cah  
Enclosure

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

**IN THE MATTER  
OF  
JOHN DOUGLAS EDGAR, JR., M.D.**

**DETERMINATION  
AND  
ORDER  
BPMC 04 - 82**

**COPY**

David Harris, M.D., M.P.H. (Chair), Cassandra E. Henderson, M.D., and Constance Diamond, D.A., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10) of the Public Health Law. Marc P. Zylberberg, Esq., Administrative Law Judge, ("ALJ") served as the Administrative Officer.

The Department of Health appeared by Terrence Sheehan, Esq., Associate Counsel. Respondent, John Douglas Edgar, Jr., did not appear personally and was not represented by Counsel.

Evidence was received and examined. Transcripts of the proceeding were made. After consideration of the record, the Hearing Committee issues this Determination and Order.

**PROCEDURAL HISTORY**

Date of Notice of Hearing and  
Statement of Charges:

December 5, 2003

Date of Service of Notice of Hearing and  
Statement of Charges:

December 19, 2003

Date of Answer to Charges:

None submitted

Pre-Hearing Conference Held:	January 7, 2004
Hearing Held: - (First Hearing day):	January 15, 2004;
Location of Hearing:	Offices of New York State Department of Health 5 Penn Plaza, 6 <sup>th</sup> Floor New York, NY 10001
Deliberations Held: (last day of Hearing)	March 18, 2004

On October 20, 2003, ALJ Frederick Zimmer held a Pre-Hearing Conference. Respondent appeared at this Pre-Hearing with Counsel Sharif Mahdavian, Esq. from the firm of Friedman and Mahdavian. ALJ Zimmer ruled that the Department did not properly serve Respondent and there was a lack of jurisdiction to proceed [10/20/2003 - P.H.T-1-36]<sup>1</sup>.

On January 7, 2004, ALJ Zylberberg held a Pre-Hearing Conference. At that Pre-Hearing, the ALJ ruled that the subsequent service of the Notice of Hearing and Statement of Charges on Respondent was proper as of December 19, 2003, and that the Board for Professional Medical Conduct had obtained jurisdiction over Respondent [01/07/2004 - P.H.T-1-25].

On the January 15, 2004 Hearing day (the first actual Hearing day), Respondent did not personally appear nor was he represented by Counsel (ALJ Zylberberg had previously had a discussion with a partner from the law firm that had appeared at the October 2003 Pre-Hearing conference and was informed that the firm does not represent Respondent). During the January 15, 2004 Hearing, the ALJ informed the Hearing Committee that Respondent had received ample notice and opportunity to submit an answer. The Notice of Hearing (Department's Exhibit # 1) at page 2 states:

---

<sup>1</sup> Numbers in brackets refer to Hearing transcript page numbers [T- ] or to Pre-Hearing transcript page numbers [P.H.T-]. The Hearing Committee did not review the Pre-Hearing transcripts but, when necessary, was advised of the relevant legal decisions or rulings made by the ALJ.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge and allegation not so answered shall be deemed admitted. (Underline in original)

Public Health Law §230(10)(c) clearly indicates that the failure to file a written answer will result in the charges and allegations being deemed admitted. Due to Respondent's failure to submit a written answer, the ALJ ruled that the factual allegations and charges of misconduct contained in the Statement of Charges (Department's Exhibit # 1) were deemed admitted by Respondent [01/07/2004 - P.H.T-10-12]; see also Corsello v. New York State Department of Health, 300 A.D.2d 849, 752 N.Y.S.2d 156 (App. Div. 3<sup>rd</sup> Dep't. 12/19/2002).

### STATEMENT OF CASE

The State Board for Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York (§230 *et seq.* of the Public Health Law of the State of New York ["P.H.L."]). This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("Petitioner" or "Department") pursuant to §230 of the P.H.L. John Douglas Edgar, Jr., M.D. ("Respondent") is charged with seven (7) specifications of professional misconduct as set forth in §6530 of the Education Law of the State of New York ("Education Law").

Respondent is charged with professional misconduct by reason of: (1) failing to comply with any agreement entered into to aid his medical education (failure to repay student loans)<sup>2</sup>; (2) failure to respond to the Department of Health and make available relevant records (failure to provide

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<sup>2</sup> Education Law §6530(42) - (First Specification of the Statement of Charges [Department's Exhibit # 1]).

records to OPMC)<sup>3</sup>; (3) failure to provide access to patient information<sup>4</sup>; (4) failure to file a report required by law<sup>5</sup>; and (5) willful failure to comply with substantial provisions of laws governing the practice of medicine<sup>6</sup>;

These Charges and Specifications of professional misconduct result from Respondent's alleged conduct starting in 1986 through the present. Respondent failed to submit an answer and therefore all the factual allegations and all the specifications of misconduct contained in the Statement of Charges are deemed admitted. A copy of the Notice of Hearing and the Statement of Charges is attached to this Determination and Order as Appendix 1.

### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record available to the Hearing Committee in this matter. These facts represent documentary evidence found persuasive by the Hearing Committee in arriving at a particular finding. The Department, which has the burden of proof, was required to prove its case by a preponderance of the evidence. The Hearing Committee unanimously agreed on all Findings of Fact.

1. Respondent was authorized to practice medicine in New York State on April 28, 1992 by the issuance of license number 188872 by the New York State Education Department (Department's Exhibit # 1)<sup>7</sup>; (fact also admitted pursuant to P.H.L. §230[10][c]).

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<sup>3</sup> Education Law §6530(28)-(Second and Third Specifications of the Statement of Charges [Department's Exhibit # 1]).

<sup>4</sup> Education Law §6530(40) and Public Health Law §18 - (Fourth and Fifth Specifications of the Statement of Charges [Department's Exhibit # 1]).

<sup>5</sup> Education Law §6530(21) - (Sixth Specification of the Statement of Charges [Department's Exhibit # 1]).

<sup>6</sup> Education Law §6530(16) - (Seventh Specification of the Statement of Charges [Department's Exhibit # 1]).

<sup>7</sup> Refers to exhibits in evidence submitted by the New York State Department of Health (Department's Exhibit #). No exhibits were submitted by Dr. John Douglas Edgar, Jr.

2. The State Board for Professional Medical Conduct has obtained personal jurisdiction over Respondent (determination made by the ALJ); (P.H.L. §230[10][d]); (Department's Exhibits # 1, # 2, # 3, # 4, and # 5); [P.H.T-10].

3. Between 1986 and 1990, Respondent received several loans from the Texas Opportunity Plan Fund, as insured by the Federal Health Education Assistance Loan Program, to finance his medical education. Respondent has defaulted on all of these loans. As of June 17, 2002 the total amount in default, including interest, was \$70,256 (Department's Exhibits # 6 and # 7); (fact also admitted pursuant to P.H.L. §230[10][c]).

4. Respondent has failed to make available to the Department of Health records relevant to inquiries concerning his professional conduct. On November 20, 2002, the Office of Professional Medical Conduct sent an official request to Respondent for copies of the medical records of two patients. Respondent did not respond to or comply with the request (Department's Exhibit # 8); (fact also admitted pursuant to P.H.L. §230[10][c]).

5. Respondent has failed to make available to the Department of Health records relevant to inquiries concerning his professional conduct. On December 12, 2002, the Office of Professional Medical Conduct sent an official request to Respondent for copies of the medical records of four patients. Respondent did not respond to or comply with the request (Department's Exhibit # 9); (fact also admitted pursuant to P.H.L. §230[10][c]).

6. Respondent has failed to provide access by qualified persons to patient information. In 2002 Patient A<sup>8</sup> requested that Respondent forward to Patient A a copy of her medical record as maintained by Respondent. Respondent failed to comply with Patient A's request (fact admitted pursuant to P.H.L. §230[10][c]).

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<sup>8</sup> The record and this Determination and Order refers to the patient by letter to protect patient privacy. Patient A is identified in the Appendix annexed to the Statement of Charges (Department's Exhibit #1).



7. Respondent has failed to provide access by qualified persons to patient information. In 2002, Magnola Saringer, M.D., Patient A's psychiatrist, requested Respondent furnish her with a copy of Patient A's medical record. Respondent did not comply (fact admitted pursuant to P.H.L. §230[10][c]).

8. Despite numerous requests, Respondent has never filed with the New York State Department of Health, a physician profile statement as required by Public Health Law §2995-a. (Department's Exhibits # 10 and # 11); (fact also admitted pursuant to P.H.L. §230[10][c]).

### **CONCLUSIONS OF LAW**

The Hearing Committee makes the unanimous conclusion, pursuant to the Findings of Fact listed above, that all the Factual Allegations contained in the December 5, 2003 Statement of Charges are **SUSTAINED**.

Based on the above, the complete Findings of Fact and the discussion below, the Hearing Committee unanimously concludes that all the Specifications of Misconduct contained in the Statement of Charges are **SUSTAINED**.

The rationale for the Hearing Committee's conclusions is set forth below.

### **DISCUSSION**

Respondent is charged with seven (7) specifications alleging professional misconduct within the meaning of §6530 of the Education Law. The Hearing Committee used ordinary English usage and understanding for all terms and allegations. The Hearing Committee determined that all of the allegations and all of the charges contained in the Statement of Charges were established by a preponderance of the evidence.

Respondent did not appear at the Hearing. The Department introduced into evidence exhibits # 2, 3, 4 and 5 which proved that the Respondent was served with the Notice of Hearing and

Statement of Charges. The ALJ ruled that the requirements of the Public Health Law for service of process had been met and that the Hearing could proceed despite the absence of the Respondent. The ALJ also ruled that the requirements of the Public Health Law required Respondent to file a written answer to the Statement of Charges and that the failure to do so results in the allegations and specifications of misconduct being deemed admitted by Respondent pursuant to the laws of the State of New York (P.H.L. §230(10)(c) and Corsello v. New York State Department of Health). In addition to the fact that the allegations are deemed admitted, the Hearing Committee concludes that the documentary evidence presented by the Department also sustains the allegations.

### **DETERMINATION AS TO PENALTY**

After a full and complete review of all of the evidence presented and pursuant to the Findings of Fact, Conclusions of Law and Discussion set forth above, a unanimous Hearing Committee determines that Respondent's license to practice medicine in New York State should be REVOKED.

This determination is reached after due and careful consideration of the full spectrum of penalties available pursuant to P.H.L. §230-a, including: (1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) The imposition of monetary penalties; (8) A course of education or training; (9) Performance of public service; and (10) Probation.

Since Respondent did not appear at the Hearing, the record contains no evidence of mitigating circumstances, rehabilitation or remorse by Respondent. The Charges against Respondent involve his failure to carry out his responsibilities and stonewalling the Department in its efforts to carry out the Public Health Law and to protect the public.

By failing to appear at the Hearing, Respondent continues his disregard for the process and the public. Respondent's failure to provide the patient records has the potential for patient harm and is seen by the Hearing Committee as serious misconduct. Respondent's total disregard of the system, including his failure to repay his loans; his failure to provide patient records; his failure to respond to OPMC and to Patient A's treating physician; and his failure to file the required physician profile statement, all lead to the conclusion of a willful pattern of disregard by Respondent which needs to be addressed before Respondent can safely practice medicine in this society. The Department recommended that Respondent's license to practice medicine be revoked. This recommendation is adopted.

Taking all of the facts, details, circumstances, and particulars in this matter into consideration, the Hearing Committee determines that the above is the appropriate action under the circumstances.

All other issues raised by both parties have been duly considered by the Hearing Committee and would not justify a change in the Findings, Conclusions or Determination contained herein.

By execution of this Determination and Order, all members of the Hearing Committee certify that they have read and considered the complete record of this proceeding.

## **ORDER**

Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The FIRST through SEVENTH SPECIFICATIONS contained in the Statement of Charges (Department's Exhibit # 1) are **SUSTAINED**; and
2. All Factual Allegations contained in the Statement of Charges (Department's Exhibit # 1) are **SUSTAINED**; and
3. Respondent's license to practice medicine in the State of New York is hereby **REVOKED**; and
4. This Order shall be effective on personal service on the Respondent or 7 days after the date of mailing of a copy to Respondent by certified mail or as provided by P.H.L. §230(10)(h).

**DATED:** New York  
April, 15<sup>th</sup> 2004



**DAVID HARRIS, M.D., M.P.H. - CHAIR**  
**CASSANDRA E. HENDERSON, M.D.**  
**CONSTANCE DIAMOND, D.A.**

John Douglas Edgar, Jr.  
51 East 73<sup>rd</sup> Street  
Suite 1A  
New York, NY 10021

John Douglas Edgar, Jr.  
393 Butter Lane  
Bridgehampton, NY 11932

Terrence Sheehan, Esq.  
Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
5 Penn Plaza, 6<sup>th</sup> Floor  
New York, NY 10001

# APPENDIX 1

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

IN THE MATTER  
OF  
JOHN DOUGLAS EDGAR, JR., M.D.

NOTICE  
OF  
HEARING

TO: John Douglas Edgar, Jr., M.D.  
51 East 73<sup>rd</sup> Street  
Suite 1A  
New York, NY

John Douglas Edgar, Jr., M.D.  
393 Butler Lane  
Bridgehampton, NY

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on **January 15, 2004, at 10:00 a.m.**, at the Offices of the New York State Department of Health, 5 Penn Plaza - Suite 601, New York, New York 10001, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication,

Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), 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. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

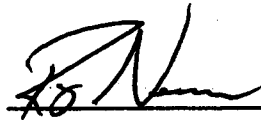
Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such 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. Pursuant to §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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty 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 BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York  
December 5, 2003



ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be directed to: **TERRENCE SHEEHAN**  
Associate Counsel  
Bureau of Professional  
Medical Conduct  
5 Penn Plaza, Suite 601  
New York, New York 10001  
(212) 268- 6816  
  
Bureau of Professional Medical Conduct



## **SECURITY NOTICE TO THE LICENSEE**

The proceeding will be held in a secure building with restricted access. Only individuals whose names are on a list of authorized visitors for the day will be admitted to the building

No individual's name will be placed on the list of authorized visitors unless written notice of that individual's name is provided by the licensee or the licensee's attorney to one of the Department offices listed below.

The written notice may be sent via facsimile transmission, or any form of mail, but must be received by the Department **no less than two days prior to the date of the proceeding**. The notice must be on the letterhead of the licensee or the licensee's attorney, must be signed by the licensee or the licensee's attorney, and must include the following information:

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Licensee's Name \_\_\_\_\_ Date of Proceeding \_\_\_\_\_

Name of person to be admitted \_\_\_\_\_

Status of person to be admitted \_\_\_\_\_  
(Licensee, Attorney, Member of Law Firm, Witness, etc.)

Signature (of licensee or licensee's attorney) \_\_\_\_\_

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This written notice must be sent to:

New York State Health Department  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor South  
Troy, NY 12180  
Fax: 518-402-0751

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

IN THE MATTER  
OF  
JOHN DOUGLAS EDGAR, JR., M.D.

STATEMENT  
OF  
CHARGES

John Douglas Edgar, Jr., M.D., the Respondent, was authorized to practice medicine in New York State on or about April 28, 1992, by the issuance of license number 188872 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Between in or about 1986 and in or about 1990, Respondent received several loans from the Texas Opportunity Plan Fund, as insured by the Federal Health Education Assistance Loan Program, to finance his medical education. Respondent has defaulted on all of these loans. As of June 17, 2002 the total amount in default, including interest, was \$70,256.
- B. Respondent has failed to make available to the Department of Health records relevant to inquiries concerning his professional misconduct:
1. On or about November 20, 2002, the Office of Professional Medical Conduct sent an official request to Respondent for copies of the medical records of two patients. Respondent did not respond to or comply with the request.
  2. On or about December 12, 2002, the Office of Professional Medical Conduct sent an official request to Respondent for copies of the medical records of four patients. Respondent did not

respond to or comply with the request.

C. Respondent has failed to provide access by qualified persons to patient information:

1. In or about 2002, Patient A whose name is contained in the attached Appendix requested Respondent to forward to Patient A a copy of her medical record as maintained by Respondent. Respondent failed to comply with this request.
2. In or about 2002, Magnola Saringer, M.D., Patient A's psychiatrist, requested Respondent to furnish her with a copy of Patient A's medical record. The Respondent did not comply.

D. Despite numerous requests, Respondent has never filed with the New York State Department of Health, a physician profile statement as required by Public Health Law §2995-a.

## **SPECIFICATION OF CHARGES**

### **FIRST SPECIFICATION**

#### **FAILURE TO REPAY STUDENT LOANS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(42) by failing to comply with any agreement entered into to aid his medical education, as alleged in the following paragraph:

1. A

### **SECOND AND THIRD SPECIFICATION**

#### **FAILURE TO PROVIDE RECORDS TO OPMC**

Respondent is charged with committing professional misconduct as defined in Public Health Law §6530(28) by his failure to respond within thirty days to written communications from the department of health and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct. The period of thirty days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from the department of health by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of thirty days shall commence on the date delivery to the licensee, as indicated by the return receipt, as alleged in the following paragraph:

2. B and B(1)
3. B and B(2)

## **FOURTH AND FIFTH SPECIFICATION**

### **FAILURE TO FORWARD PATIENT RECORDS**

Respondent is charged with committing professional misconduct as defined in New York Educ. Law §6530(40) and Public Health Law §18, by failing to provide access by qualified persons to patient information in accordance with the standards set forth in Public Health Law §18 as alleged in the following paragraphs:

- 4. C and C(1)
- 5. C and C(2)

## **SIXTH SPECIFICATION**

### **FAILING TO FILE A REPORT**

Respondent is charged with committing professional misconduct as defined in the New York Educ. Law §6520(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, as alleged in facts of the following paragraphs:

- 6. D

## SEVENTH SPECIFICATION

### WILLFUL FAILURE TO COMPLY WITH SUBSTANTIAL PROVISIONS OF LAW

Respondent is charged with committing professional misconduct as defined in New York Educ. Law §6530(16) by his willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine; as alleged in the facts of the following paragraph:

7. D

DATED: December 5, 2003  
New York, New York



ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct