



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

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

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chairman

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

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

PUBLIC

December 3, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Lawrence J. Kessler, D.O.

REDACTED

RE: License No. 188733

Dear Dr. Kessler:

Enclosed please find Order #BPMC 04-278 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect December 10, 2004.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days or receipt of the of the Order to:

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

REDACTED

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

cc: Alexander G. Bateman, Jr., Esq.
Ruskin, Moscou, Faltischeck, P.C.
East Tower, 15th Floor
190 EAB Plaza
Uniondale, NY 11556-0190

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

IN THE MATTER
OF
LAWRENCE JAY KESSLER, D.O.

CONSENT
ORDER

BPMC No. 04-278

Upon the application of Lawrence Jay Kessler, D.O., in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

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

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

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

SO ORDERED.

DATED: 12-2-2004

REDACTED

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

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

**IN THE MATTER
OF
LAWRENCE JAY KESSLER, D.O.**

**CONSENT
AGREEMENT
AND
ORDER**

Lawrence Jay Kessler, D.O., representing that all of the following statements are true, deposes and says:

That on or about April 10, 1992, I was licensed to practice as a physician in the State of New York, and issued License No. 188733 by the New York State Education Department.

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

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

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

I do not contest paragraphs A, B, C, E, E(1)(a - g), F, and F(1)(a - g) of the factual allegations and the thirty-third (insofar as it pertains to paragraphs A, B, C, E, E(1)(a - g), F, and F(1)(a - g)), sixty-eighth, and sixty-ninth specifications of the

Statement of Charges, in full satisfaction of the charges against me, and agree to the following penalty:

- I agree that I shall receive a censure and reprimand, pursuant to §230-a(1) of the Public Health Law.
- I agree that I shall be fined in the amount of \$10,000, pursuant to §230-a(7) and (9) of the Public Health Law, \$5,000 of which shall be paid within 30 days of the effective date of this Order and the remaining \$5,000 of which shall be paid within 90 days of the effective date of this Order. Payment must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1245
Empire State Plaza
Albany, New York 12237

Failure to pay any monetary penalty by the prescribed date shall subject me to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; non-renewal of permits or licenses (Tax Law Section 171(27); State Finance Law Section 18; CPLR Section 5001; Executive Law Section 32).

- I agree that I shall only issue a prescription to a patient with whom I have had a qualifying medical relationship. For

purposes of this Consent Agreement and Order, a qualifying medical relationship shall mean that I shall have conducted at least one in-person medical evaluation of the patient. An in-person medical evaluation shall mean that I shall have conducted the evaluation in the physical presence of the patient, without regard to whether other portions of the evaluation have been conducted by other health professionals. Further, with respect to any patient, regardless of whether I have had a qualifying medical relationship with that particular patient, I shall not prescribe, dispense, or administer anabolic steroids as defined either in 21 Code of Federal Regulations 1300.01(a)(4) or New York Public Health Law 3306(Schedule II)(h), human chorionic gonadotrophin or human growth hormone.

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

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

That Respondent shall cooperate fully with the Office of

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

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

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

I ask the Board to adopt this Consent Agreement.

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

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

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

DATED: 11/18/2004

REDACTED

LAWRENCE JAY KESSLER, D.O.
RESPONDENT

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

DATED: 11/18/04

REDACTED

ALEXANDER G. BATEMAN, Jr., ESQ.
Attorney for Respondent
Ruskin Moscou Faltischek, P.C.
East Tower, 15th Floor
190 EAB Plaza
Uniondale, NY 11556-0190

DATED: 11/19/04

REDACTED

RICHARD J. ZAHNLEUTER
Associate Counsel
Bureau of Professional Medical Conduct

DATED: 12/01/04

REDACTED

DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT "A"

IN THE MATTER
OF
LAWRENCE JAY KESSLER, D.O.

STATEMENT
OF
CHARGES

LAWRENCE JAY KESSLER, D.O., (hereinafter, the "Respondent"), was authorized to practice medicine in New York State on April 10, 1992, by the issuance of license number 188733 by the New York State Education Department. The Respondent's current address, upon information and belief, is 2833 Len Drive, Bellmore, New York 11710.

FACTUAL ALLEGATIONS

- A. In approximately 1994, the Respondent became certified as a fellow of the American Board of Emergency Medicine.
- B. In approximately 2000, the Respondent established a professional relationship with Inter-Global Pharmacy and an affiliate, World Pharmacy, Inc., both located in the Grand Bahamas.
- C. The general terms of the relationship were that Inter-Global Pharmacy and World Pharmacy, Inc., faxed a set of records to the Respondent concerning a particular patient. The set of records generally consisted of: a "Fax Cover Sheet"; a "Patient Request to Prescribing Physician for Prescription and Medical Treatment"; a "Fax Laboratory Report"; a "Patient Agreement Authorizing World Pharmacy, Inc. To Select A Treating and Prescribing

Physician, Blood Testing Medical Laboratory and Dispensing Pharmacy ..."; and a "Confidential Medical History Form". The Respondent reviewed the set of records and then faxed to Inter-Global Pharmacy and World Pharmacy, Inc., signed prescriptions for that particular patient. Periodically, the Respondent sent Inter-Global Pharmacy and World Pharmacy, Inc., an invoice for medical services rendered. For each patient, the Respondent billed, and received from, Inter-Global Pharmacy and World Pharmacy, Inc., \$50 out of the money that each patient initially paid Inter-Global Pharmacy and World Pharmacy, Inc.

D. Specifically with respect to Patient A¹, on August 7, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient A, who had a history of removal of a brain tumor and seizure disorders, did not meet acceptable standards of medical care in that:

1. The Respondent prescribed human growth hormone (hereinafter, "HGH") and syringes to Patient A,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and

¹To preserve privacy throughout this document, patients are referred to by letter designation. An Appendix of patient names is attached hereto for appropriate recipients.

- g. subjecting Patient A to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed HGH.

E. Specifically with respect to Patient B, on June 21, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient B, who had a history of low free testosterone and low total testosterone, did not meet acceptable standards of medical care in that:

- 1. The Respondent prescribed testosterone, human chorionic gonadotrophin (hereinafter, "HCG"), HGH, syringes, and needles to Patient B,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient B to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.

F. Specifically with respect to Patient C, on June 17, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The

Respondent's care of Patient C did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient C,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient C to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.

G. Specifically with respect to Patient D, on June 9, 2000 and August 3, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient D did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient D,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;

- f. without preparing adequate documentation; and
 - g. subjecting Patient D to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.

- H. Specifically with respect to Patient E, on June 15, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient E did not meet acceptable standards of medical care in that:
 - 1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient E,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient E to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.

- I. Specifically with respect to Patient F, on June 16, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The

Respondent's care of Patient F did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient F,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient F to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.

J. Specifically with respect to Patient G, on May 25, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient G did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, HCG, and syringes to Patient G,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;

- f. without preparing adequate documentation; and
- g. subjecting Patient G to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone and HCG.

K. Specifically with respect to Patient H, on May 22, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient H did not meet acceptable standards of medical care in that:

- 1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient H,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient H to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.

L. Specifically with respect to Patient I, on May 24, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient I did not meet acceptable standards of medical

care in that:

1. The Respondent prescribed testosterone, HCG, syringes, and needles to Patient I,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient I to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone and HCG.

M. Specifically with respect to Patient J, on May 26, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient J did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient J,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient J to an increased risk of morbidity and

mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.

N. Specifically with respect to Patient K, on May 31, 2000 and June 1, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient K did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, HCG, syringes, and needles to Patient K,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient K to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone and HCG.

O. Specifically with respect to Patient L, on July 21, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient L did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, syringes, and needles to

Patient L,

- a. without having an adequate history available;
- b. without performing a physical examination;
- c. without ordering further examination or evaluation;
- d. without formulating a justifiable diagnosis;
- e. without ordering follow-up care;
- f. without preparing adequate documentation; and
- g. subjecting Patient L to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone.

P. Specifically with respect to Patient M, on August 3, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient M did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient M,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient C to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and

HGH.

- Q. Specifically with respect to Patient N, on August 4, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient N did not meet acceptable standards of medical care in that:
1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient N,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient N to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.
- R. Specifically with respect to Patient O, on September 19, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient O did not meet acceptable standards of medical care in that:
1. The Respondent prescribed HGH and syringes to Patient O,
 - a. without having an adequate history available;

- b. without performing a physical examination;
- c. without ordering further examination or evaluation;
- d. without formulating a justifiable diagnosis;
- e. without ordering follow-up care;
- f. without preparing adequate documentation; and
- g. subjecting Patient O to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed HGH.

S. Specifically with respect to Patient P, on August 8, 2000, the Respondent provided medical care in the form of reviewing a set of records and issuing prescriptions to Inter-Global Pharmacy and World Pharmacy, Inc. The Respondent's care of Patient P did not meet acceptable standards of medical care in that:

1. The Respondent prescribed testosterone, HCG, HGH, syringes, and needles to Patient P,
 - a. without having an adequate history available;
 - b. without performing a physical examination;
 - c. without ordering further examination or evaluation;
 - d. without formulating a justifiable diagnosis;
 - e. without ordering follow-up care;
 - f. without preparing adequate documentation; and
 - g. subjecting Patient P to an increased risk of morbidity and mortality due to the potential for a significant harmful effect from, or adverse reaction to, the prescribed testosterone, HCG, and HGH.

SPECIFICATIONS OF MISCONDUCT

FIRST THROUGH SIXTEENTH SPECIFICATIONS (GROSS NEGLIGENCE)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the following:

1. The facts set forth in paragraphs A, B, C, D, and/or D(1)(a, b, c, d, e, f, and/or g).
2. The facts set forth in paragraphs A, B, C, E, and/or E(1)(a, b, c, d, e, f, and/or g).
3. The facts set forth in paragraphs A, B, C, F, and/or F(1)(a, b, c, d, e, f, and/or g).
4. The facts set forth in paragraphs A, B, C, G, and/or G(1)(a, b, c, d, e, f, and/or g).
5. The facts set forth in paragraphs A, B, C, H, and/or H(1)(a, b, c, d, e, f, and/or g).
6. The facts set forth in paragraphs A, B, C, I, and/or I(1)(a, b, c, d, e, f, and/or g).
7. The facts set forth in paragraphs A, B, C, J, and/or J(1)(a, b, c, d, e, f, and/or g).
8. The facts set forth in paragraphs A, B, C, K, and/or K(1)(a, b, c, d, e, f, and/or g).
9. The facts set forth in paragraphs A, B, C, L, and/or L(1)(a, b, c, d, e, f, and/or g).
10. The facts set forth in paragraphs A, B, C, M, and/or

- M(1)(a, b, c, d, e, f, and/or g).
11. The facts set forth in paragraphs A, B, C, N, and/or N(1)(a, b, c, d, e, f, and/or g).
 12. The facts set forth in paragraphs A, B, C, O and/or O(1)(a, b, c, d, e, f, and/or g).
 13. The facts set forth in paragraphs A, B, C, P, and/or P(1)(a, b, c, d, e, f, and/or g).
 14. The facts set forth in paragraphs A, B, C, Q, and/or Q(1)(a, b, c, d, e, f, and/or g).
 15. The facts set forth in paragraphs A, B, C, R, and/or R(1)(a, b, c, d, e, f, and/or g).
 16. The facts set forth in paragraphs A, B, C, S, and/or S(1)(a, b, c, d, e, f, and/or g).

**SEVENTEENTH THROUGH THIRTY-SECOND SPECIFICATIONS
(GROSS INCOMPETENCE)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the following:

17. The facts set forth in paragraphs A, B, C, D, and/or D(1)(a, b, c, d, e, and/or f).
18. The facts set forth in paragraphs A, B, C, E, and/or E(1)(a, b, c, d, e, f, and/or g).
19. The facts set forth in paragraphs A, B, C, F, and/or F(1)(a, b, c, d, e, f, and/or g).
20. The facts set forth in paragraphs A, B, C, G, and/or G(1)(a, b, c,

- d, e, f, and/or g).
21. The facts set forth in paragraphs A, B, C, H, and/or H(1)(a, b, c, d, e, f, and/or g).
 22. The facts set forth in paragraphs A, B, C, I, and/or I(1)(a, b, c, d, e, f, and/or g).
 23. The facts set forth in paragraphs A, B, C, J, and/or J(1)(a, b, c, d, e, f, and/or g).
 24. The facts set forth in paragraphs A, B, C, K, and/or K(1)(a, b, c, d, e, f, and/or g).
 25. The facts set forth in paragraphs A, B, C, L, and/or L(1)(a, b, c, d, e, f, and/or g).
 26. The facts set forth in paragraphs A, B, C, M, and/or M(1)(a, b, c, d, e, f, and/or g).
 27. The facts set forth in paragraphs A, B, C, N, and/or N(1)(a, b, c, d, e, f, and/or g).
 28. The facts set forth in paragraphs A, B, C, O and/or O(1)(a, b, c, d, e, f, and/or g).
 29. The facts set forth in paragraphs A, B, C, P, and/or P(1)(a, b, c, d, e, f, and/or g).
 30. The facts set forth in paragraphs A, B, C, Q, and/or Q(1)(a, b, c, d, e, f, and/or g).
 31. The facts set forth in paragraphs A, B, C, R, and/or R(1)(a, b, c, d, e, f, and/or g).
 32. The facts set forth in paragraphs A, B, C, S, and/or S(1)(a, b, c, d, e, f, and/or g).

THIRTY-THIRD SPECIFICATION
(NEGLIGENCE ON MORE THAN ONE OCCASION)

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

33. The facts set forth in paragraphs A, B, C, D, D(1)(a, b, c, d, e, f, and/or g), E, E(1)(a, b, c, d, e, f, and/or g), F, F(1)(a, b, c, d, e, f, and/or g), G, G(1)(a, b, c, d, e, f, and/or g), H, H(1)(a, b, c, d, e, f, and/or g), I, I(1)(a, b, c, d, e, f, and/or g), J, J(1)(a, b, c, d, e, f, and/or g), K, K(1)(a, b, c, d, e, f, and/or g), L, L(1)(a, b, c, d, e, f, and/or g), M, M(1)(a, b, c, d, e, f, and/or g), N, N(1)(a, b, c, d, e, f, and/or g), O, O(1)(a, b, c, d, e, f, and/or g), P, P(1)(a, b, c, d, e, f, and/or g), Q, Q(1)(a, b, c, d, e, f, and/or g), R, R(1)(a, b, c, d, e, f, and/or g), S, and/or S(1)(a, b, c, d, e, f, and/or g).

THIRTY-FOURTH SPECIFICATION
(INCOMPETENCE ON MORE THAN ONE OCCASION)

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

34. The facts set forth in paragraphs A, B, C, D, D(1)(a, b, c, d, e, f, and/or g), E, E(1)(a, b, c, d, e, f, and/or g), F, F(1)(a, b, c, d, e, f, and/or g), G, G(1)(a, b, c, d, e, f, and/or g), H, H(1)(a, b, c, d, e, f, and/or g), I, I(1)(a, b, c, d, e, f, and/or g), J, J(1)(a, b, c, d, e, f,

and/or g), K, K(1)(a, b, c, d, e, f, and/or g), L, L(1)(a, b, c, d, e, f, and/or g), M, M(1)(a, b, c, d, e, f, and/or g), N, N(1)(a, b, c, d, e, f, and/or g), O, O(1)(a, b, c, d, e, f, and/or g), P, P(1)(a, b, c, d, e, f, and/or g), Q, Q(1)(a, b, c, d, e, f, and/or g), R, R(1)(a, b, c, d, e, f, and/or g), S, and/or S(1)(a, b, c, d, e, f, and/or g).

**THIRTY-FIFTH THROUGH FIFTIETH SPECIFICATIONS
(PERMITTING, AIDING AND ABETTING UNLICENSED PRACTICE)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(11) by having permitted, aided, or abetted an unlicensed person to perform activities requiring a license, as alleged in the following:

35. The facts set forth in paragraphs A, B, C, D, and/or D(1)(a, b, c, d, e, f, and/or g).
36. The facts set forth in paragraphs A, B, C, E, and/or E(1)(a, b, c, d, e, f, and/or g).
37. The facts set forth in paragraphs A, B, C, F, and/or F(1)(a, b, c, d, e, f, and/or g).
38. The facts set forth in paragraphs A, B, C, G, and/or G(1)(a, b, c, d, e, f, and/or g).
39. The facts set forth in paragraphs A, B, C, H, and/or H(1)(a, b, c, d, e, f, and/or g).
40. The facts set forth in paragraphs A, B, C, I, and/or I(1)(a, b, c, d, e, f, and/or g).
41. The facts set forth in paragraphs A, B, C, J, and/or J(1)(a, b, c, d, e, f, and/or g).

42. The facts set forth in paragraphs A, B, C, K, and/or K(1)(a, b, c, d, e, f, and/or g).
43. The facts set forth in paragraphs A, B, C, L, and/or L(1)(a, b, c, d, e, f, and/or g).
44. The facts set forth in paragraphs A, B, C, M, and/or M(1)(a, b, c, d, e, f, and/or g).
45. The facts set forth in paragraphs A, B, C, N, and/or N(1)(a, b, c, d, e, f, and/or g).
46. The facts set forth in paragraphs A, B, C, O and/or O(1)(a, b, c, d, e, f, and/or g).
47. The facts set forth in paragraphs A, B, C, P, and/or P(1)(a, b, c, d, e, f, and/or g).
48. The facts set forth in paragraphs A, B, C, Q, and/or Q(1)(a, b, c, d, e, f, and/or g).
49. The facts set forth in paragraphs A, B, C, R, and/or R(1)(a, b, c, d, e, f, and/or g).
50. The facts set forth in paragraphs A, B, C, S, and/or S(1)(a, b, c, d, e, f, and/or g).

**FIFTY-FIRST THROUGH SIXTY-SIXTH SPECIFICATIONS
(PATIENT REFERRAL FEES)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(18) by directly or indirectly receiving or agreeing to receive any fee or other consideration from a third party for the referral of a patient or in connection with the performance of professional services as alleged in the following:

51. The facts set forth in paragraphs B, C, and/or D.
52. The facts set forth in paragraphs B, C, and/or E.
53. The facts set forth in paragraphs B, C, and/or F.
54. The facts set forth in paragraphs B, C, and/or G.
55. The facts set forth in paragraphs B, C, and/or H.
56. The facts set forth in paragraphs B, C, and/or I.
57. The facts set forth in paragraphs B, C, and/or J.
58. The facts set forth in paragraphs B, C, and/or K.
59. The facts set forth in paragraphs B, C, and/or L.
60. The facts set forth in paragraphs B, C, and/or M.
61. The facts set forth in paragraphs B, C, and/or N.
62. The facts set forth in paragraphs B, C, and/or O.
63. The facts set forth in paragraphs B, C, and/or P.
64. The facts set forth in paragraphs B, C, and/or Q.
65. The facts set forth in paragraphs B, C, and/or R.
66. The facts set forth in paragraphs B, C, and/or S.

**SIXTY-SEVENTH THROUGH EIGHTY-SECOND SPECIFICATIONS
(FEE SPLITTING)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(19) by sharing fees for professional services with any person other than a partner, employee, associate in a professional firm or corporation, a professional subcontractor or consultant authorized to practice medicine, or a legally authorized trainee as alleged in the following:

67. The facts set forth in paragraphs B, C, and/or D.
68. The facts set forth in paragraphs B, C, and/or E.

69. The facts set forth in paragraphs B, C, and/or F.
70. The facts set forth in paragraphs B, C, and/or G.
71. The facts set forth in paragraphs B, C, and/or H.
72. The facts set forth in paragraphs B, C, and/or I.
73. The facts set forth in paragraphs B, C, and/or J.
74. The facts set forth in paragraphs B, C, and/or K.
75. The facts set forth in paragraphs B, C, and/or L.
76. The facts set forth in paragraphs B, C, and/or M.
77. The facts set forth in paragraphs B, C, and/or N.
78. The facts set forth in paragraphs B, C, and/or O.
79. The facts set forth in paragraphs B, C, and/or P.
80. The facts set forth in paragraphs B, C, and/or Q.
81. The facts set forth in paragraphs B, C, and/or R.
82. The facts set forth in paragraphs B, C, and/or S.

**EIGHTY-THIRD THROUGH NINETY-EIGHTH SPECIFICATIONS
(FAILING TO MAINTAIN RECORDS)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) by failing to maintain a record for each patient that accurately reflects the evaluation and treatment of the patient as alleged in the following:

83. The facts set forth in paragraphs D and/or D(1)(f).
84. The facts set forth in paragraphs E and/or E(1)(f).
85. The facts set forth in paragraphs F and/or F(1)(f).
86. The facts set forth in paragraphs G and/or G(1)(f).
87. The facts set forth in paragraphs H and/or H(1)(f).

88. The facts set forth in paragraphs I and/or I(1)(f).
89. The facts set forth in paragraphs J and/or J(1)(f).
90. The facts set forth in paragraphs K and/or K(1)(f).
91. The facts set forth in paragraphs L and/or L(1)(f).
92. The facts set forth in paragraphs M and/or M(1)(f).
93. The facts set forth in paragraphs N and/or N(1)(f).
94. The facts set forth in paragraphs O and/or O(1)(f).
95. The facts set forth in paragraphs P and/or, P(1)(f).
96. The facts set forth in paragraphs Q and/or Q(1)(f).
97. The facts set forth in paragraphs R and/or R(1)(f).
98. The facts set forth in paragraphs S, and/or S(1)(f).

DATED: August 26, 2004
Albany, New York

REDACTED

Peter D. Van Buren
Deputy Counsel
Bureau of Professional
Medical Conduct