



***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.  
*Commissioner  
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**

April 6, 2005

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

Jonathan Mark Insel, M.D.  
664 Columbia Turnpike  
East Greenbush, NY 12061

Re: License No. 106224

Dear Dr. Insel:

Enclosed is a copy of Order #BPMC 05-63 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect April 13, 2005.

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

Sincerely,

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

Executive Secretary

Board for Professional Medical Conduct

Enclosure

**IN THE MATTER  
OF  
JONATHAN MARK INSEL, M.D.**

**CONSENT  
AND  
SURRENDER  
ORDER**

BPMC No. 05-63

Upon the application of (Respondent) Jonathan Mark Insel, M.D., in the attached Consent and Surrender Agreement and Order, which is made a part of this Consent and Surrender Order, it is

ORDERED, that the Consent and Surrender Agreement, and its terms, are adopted and

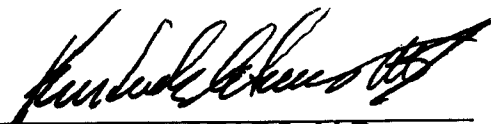
it is further

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

- by mailing of a copy of this Consent and Surrender Order, either by first class mail to Respondent at the address in the attached Consent and Surrender 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: 4/4/05

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

**IN THE MATTER  
OF  
JONATHAN MARK INSEL, M.D.**

**CONSENT AND  
SURRENDER  
AGREEMENT  
AND  
ORDER**

Jonathan Mark Insel, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 1, 1970, I was licensed to practice as a physician in the State of New York, and issued License No. 106224 by the New York State Education Department.

My current address is 664 Columbia Turnpike, East Greenbush, NY 12061, 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 50 specifications of professional misconduct.

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

I admit the First through Sixth Specifications of the Statement of Charges, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation from the effective date of this Order through June 1, 2005, subject to the terms set forth in attached Exhibit "B." On June 1, 2005, I shall surrender my license to practice medicine in New York, subject to the terms set forth in attached Exhibit "C."

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

That Respondent shall maintain active registration of Respondent's license 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 and Surrender 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 and Surrender 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 future, this Consent and Surrender Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent and Surrender Agreement.

I understand that if the Board does not adopt this Consent and Surrender Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent and Surrender 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 and Surrender Agreement, the Chair of the Board shall issue a Consent and Surrender 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 and Surrender Order by first class mail to me at the address in this Consent and Surrender Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent and Surrender 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 and Surrender 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 and Surrender Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent and Surrender Order, and ask that the Board adopt this Consent and Surrender Agreement.

DATE: 2/15/05

  
\_\_\_\_\_  
JONATHAN MARK INSEL, M.D.  
RESPONDENT

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

DATE: 3/7/05

  
\_\_\_\_\_  
RICHARD J. ZAHNLEUTER  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: MARCH 30 2005

  
\_\_\_\_\_  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

**EXHIBIT "A"**  
**(STATEMENT OF CHARGES)**

**IN THE MATTER**  
**OF**  
**JONATHAN MARK INSEL, M.D.**

**STATEMENT**  
**OF**  
**CHARGES**

Jonathan Mark Insel, M.D., referred to hereafter as the Respondent, was authorized to practice medicine in the State of New York on July 1, 1970 by the issuance of license number 106224 by the New York State Education Department. The Respondent's current address, upon information and belief, is 664 Columbia Turnpike, East Greenbush, NY 12061.

**FACTUAL ALLEGATIONS**

**(Care and Treatment of Patients A, B, C, D, E, F, G)**

A. At a professional medical corporation known as Albany Multi-Medicine, P.C., the Respondent cared for Patient A<sup>1</sup> beginning on April 4, 2002 for low back pain. The Respondent cared for Patient A by continuing a treatment plan instituted on November 1, 2000 by another physician at Albany Multi-Medicine, P.C. The Respondent's care of Patient A did not meet acceptable standards of medical care in that:

1. The Respondent failed to realize or document that another physician at Albany Multi-Medicine, P.C., had conducted an inadequate and incomplete initial examination and history, and then the Respondent

---

<sup>1</sup>To preserve privacy throughout this document, patients are referred to by letter designation. An Appendix of Patient Names is attached hereto for appropriate recipients.



failed to conduct, or document, his own follow-up examination and history upon taking over the care.

2. The Respondent failed to realize or document that another physician at Albany Multi-Medicine, P.C., had ordered excessive physical therapy, and then the Respondent continued to order excessive physical therapy in terms of frequency, total amount and duration, without supporting documentation.

B. At Albany Multi-Medicine, P.C., the Respondent cared for Patient B beginning on November 29, 2001 for right wrist pain. The Respondent's care of Patient B did not meet acceptable standards of medical care in that:

1. The Respondent failed to conduct or document an adequate and complete initial examination and history.
2. The Respondent failed to conduct or document adequate and complete follow-up examinations and histories.
3. Concerning physical therapy:
  - a. The Respondent ordered redundant and unnecessary ultrasound and hot packs, or failed to document the need for the ultrasound and hot packs that were ordered.
  - b. The Respondent ordered excessive physical therapy in terms of frequency, total amount and duration, or failed to document the need for the physical therapy that was ordered.
  - c. The Respondent ordered unnecessary hydromassage and proprioceptive neuromuscular facilitation, or failed to document the need for the hydromassage and proprioceptive neuromuscular facilitation that were ordered.
  - d. The Respondent inappropriately ordered wrist traction, or

failed to document the need for the wrist traction that was ordered.

4. Concerning acupuncture treatments:
  - a. The Respondent ordered unnecessary acupuncture, or failed to document the need for the acupuncture that was ordered.
  - b. The Respondent inappropriately and unlawfully supervised the acupuncture that was ordered and signed acupuncture bills in violation of Section 8212 of the Education Law in that he was not licensed as an acupuncturist under Section 8214 of the Education Law or certified as an acupuncturist under Section 8216 of the Education Law.
5. The Respondent failed to order anti-inflammatory drugs and analgesic medications, or failed to document such an order.
6. The Respondent failed to refer Patient B to a hand surgeon, or to document such a referral.
7. Concerning neurodiagnostic studies:
  - a. The Respondent failed to order EMG/NCV studies in a timely manner, or failed to document such a timely order.
  - b. The Respondent inappropriately and unlawfully allowed a technician to perform EMG studies and then signed the EMG reports as though the Respondent himself had performed the studies.
  - c. The Respondent ordered and/or supervised and/or performed an unnecessary EMG study of the left wrist, or failed to document the need for an EMG study of the left wrist.
  - d. The Respondent failed to order and/or supervise and/or perform a motor NCV study of the right wrist, or failed to

document such a motor NCV study of the right wrist.

- e. The Respondent failed to supervise and/or perform sensory NCV study calculations correctly.
- f. The Respondent ordered and/or supervised and/or performed an unnecessary F-wave study, or failed to document an F-wave study.
- g. The Respondent failed to order and/or supervise and/or perform an EMG/NCV study of the right upper extremity, or failed to document such an EMG/NCV study of the right upper extremity.
- h. The Respondent ordered wrist traction prematurely, or failed to document the need for wrist traction at the time it was ordered.

C. At Albany Multi-Medicine, P.C., the Respondent cared for Patient C beginning on December 14, 2001 for neck pain and, subsequently, on December 20, 2001, low back pain. The Respondent's care of Patient C did not meet acceptable standards of medical care in that:

- 1. The Respondent failed to conduct or document an adequate and complete initial examination and history.
- 2. The Respondent failed to conduct or document adequate and complete follow-up examinations and histories.
- 3. Concerning physical therapy:
  - a. The Respondent ordered redundant and unnecessary ultrasound and hot packs, or failed to document the need for the ultrasound and hot packs that were ordered.
  - b. The Respondent ordered excessive physical therapy in terms

- of frequency, total amount and duration, or failed to document the need for the physical therapy that was ordered.
- c. The Respondent ordered unnecessary myofascial pain techniques and proprioceptive neuromuscular facilitation, or failed to document the need for the myofascial pain techniques and proprioceptive neuromuscular facilitation that were ordered.
  - d. The Respondent failed to order cervical traction, or failed to document such an order.
4. The Respondent failed to order anti-inflammatory drugs and analgesic medications, or failed to document such an order.
  5. Concerning acupuncture treatments:
    - a. The Respondent ordered unnecessary acupuncture, or failed to document the need for the acupuncture that was ordered.
    - b. The Respondent inappropriately and unlawfully supervised the acupuncture that was ordered and signed acupuncture bills in violation of Section 8212 of the Education Law in that he was not licensed as an acupuncturist under Section 8214 of the Education Law or certified as an acupuncturist under Section 8216 of the Education Law.
  6. The Respondent failed to order a cock up wrist splint from an orthotist, or failed to document such an order.
  7. Concerning neurodiagnostic studies:
    - a. The Respondent inappropriately and unlawfully allowed a technician to perform EMG studies and then signed the EMG reports as though the Respondent himself had performed the studies.

- b. The Respondent failed to supervise and/or perform sensory NCV study calculations correctly.
- c. The Respondent failed to order and/or supervise and/or perform a motor NCV study of the upper extremities, or failed to document such a motor NCV study of the upper extremities.

D. At Albany Multi-Medicine, P.C., the Respondent cared for Patient D beginning on November 21, 2001 for headaches, neck pain, and low back pain. The Respondent's care of Patient D did not meet acceptable standards of medical care in that:

- 1. The Respondent failed to conduct or document an adequate and complete initial examination and history.
- 2. The Respondent failed to conduct or document adequate and complete follow-up examinations and histories.
- 3. Concerning physical therapy:
  - a. The Respondent ordered redundant and unnecessary ultrasound and hot packs, or failed to document the need for the ultrasound and hot packs that were ordered.
  - b. The Respondent ordered excessive physical therapy in terms of frequency, total amount and duration, or failed to document the need for the physical therapy that was ordered.
  - c. The Respondent ordered unnecessary myofascial pain techniques, trigger point procedures, proprioceptive neuromuscular facilitation, and work hardening for the neck and back, or failed to document the need for the myofascial pain techniques, trigger point procedures, proprioceptive

neuromuscular facilitation, and work hardening for the neck and back that were ordered.

4. Concerning acupuncture treatments:
  - a. The Respondent ordered unnecessary acupuncture, or failed to document the need for the acupuncture that was ordered.
  - b. The Respondent inappropriately and unlawfully supervised the acupuncture that was ordered and signed acupuncture bills in violation of Section 8212 of the Education Law in that he was not licensed as an acupuncturist under Section 8214 of the Education Law or certified as an acupuncturist under Section 8216 of the Education Law.

E. At Albany Multi-Medicine, P.C., the Respondent cared for Patient E beginning on January 24, 2001 for neck pain, right shoulder pain, and right back pain, and subsequently, on May 2, 2002, right knee pain. The Respondent's care of Patient E did not meet acceptable standards of medical care in that:

1. The Respondent failed to conduct or document an adequate and complete initial examination and history.
2. The Respondent failed to conduct or document adequate and complete follow-up examinations and histories.
3. Concerning physical therapy:
  - a. The Respondent ordered redundant and unnecessary ultrasound and hot packs, or failed to document the need for the ultrasound and hot packs that were ordered.
  - b. The Respondent ordered excessive physical therapy in terms of frequency, total amount and duration, or failed to document the need for the physical therapy that was ordered.

4. Concerning acupuncture treatments:
  - a. The Respondent ordered unnecessary acupuncture, or failed to document the need for the acupuncture that was ordered.
  - b. The Respondent inappropriately and unlawfully supervised the acupuncture that was ordered and signed acupuncture bills in violation of Section 8212 of the Education Law in that he was not licensed as an acupuncturist under Section 8214 of the Education Law or certified as an acupuncturist under Section 8216 of the Education Law.
5. The Respondent failed to order pharmacologic therapy, or failed to document such an order.

F. At Albany Multi-Medicine, P.C., the Respondent cared for Patient F beginning on January 7, 2002 for upper back pain, neck pain, left arm pain, and lower back pain. The Respondent's care of Patient F did not meet acceptable standards of medical care in that:

1. The Respondent failed to conduct or document an adequate and complete initial examination and history.
2. The Respondent failed to conduct or document adequate and complete follow-up examinations and histories.
3. Concerning physical therapy:
  - a. The Respondent ordered redundant and unnecessary ultrasound, hot packs, therapeutic massage, hydromassage, and trigger point procedures, or failed to document the need for the ultrasound, hot packs, therapeutic massage, hydromassage, and trigger point procedures that were ordered.

- b. The Respondent ordered excessive physical therapy in terms of frequency, total amount and duration, or failed to document the need for the physical therapy that was ordered.
  - c. The Respondent ordered unnecessary proprioceptive neuromuscular facilitation, or failed to document the need for the proprioceptive neuromuscular facilitation that were ordered.
4. Concerning acupuncture treatments:
- a. The Respondent ordered unnecessary acupuncture, or failed to document the need for the acupuncture that was ordered.
  - b. The Respondent inappropriately and unlawfully supervised the acupuncture that was ordered and signed acupuncture bills in violation of Section 8212 of the Education Law in that he was not licensed as an acupuncturist under Section 8214 of the Education Law or certified as an acupuncturist under Section 8216 of the Education Law.
5. Concerning neurodiagnostic studies:
- a. The Respondent inappropriately and unlawfully allowed a technician to perform EMG studies and then signed the EMG reports as though the Respondent himself had performed the studies.
  - b. The Respondent ordered and/or supervised and/or performed an unnecessary EMG study of the right upper extremity, or failed to document the need for an EMG study of the right upper extremity.
  - c. The Respondent failed to order and/or supervise and/or perform a motor NCV study of the upper and lower



extremities, or failed to document such a motor NCV study of the upper and lower extremities.

- d. The Respondent failed to supervise and/or perform sensory NCV study calculations correctly.
- e. The Respondent ordered and/or supervised and/or performed an unnecessary F-wave study, or failed to document an F-wave study.
- f. The Respondent failed to order and/or supervise and/or perform an EMG/NCV study of the lower extremities, or failed to document such an EMG/NCV study of the lower extremities.

G. At Albany Multi-Medicine, P.C., the Respondent cared for Patient G beginning on January 11, 2002 for carpal tunnel syndrome, ringing in the ears, neck pain, stress headaches, tingling and numbness in his hands, and difficulty in grasping objects. The Respondent's care of Patient G did not meet acceptable standards of medical care in that:

- 1. The Respondent failed to conduct or document an adequate and complete initial examination and history.
- 2. The Respondent failed to conduct or document adequate and complete follow-up examinations and histories.
- 3. The Respondent failed to order a cervical MRI in a timely manner.
- 4. Concerning physical therapy:
  - a. The Respondent ordered redundant and unnecessary ultrasound, hot packs, myofascial pain techniques, and therapeutic massage, or failed to document the need for the ultrasound, hot packs, myofascial pain techniques, and

- therapeutic massage that were ordered.
- b. The Respondent ordered excessive physical therapy in terms of frequency, total amount and duration, or failed to document the need for the physical therapy that was ordered.
5. Concerning acupuncture treatments:
    - a. The Respondent ordered unnecessary acupuncture, or failed to document the need for the acupuncture that was ordered.
    - b. The Respondent inappropriately and unlawfully supervised the acupuncture that was ordered and signed acupuncture bills in violation of Section 8212 of the Education Law in that he was not licensed as an acupuncturist under Section 8214 of the Education Law or certified as an acupuncturist under Section 8216 of the Education Law.
  6. The Respondent failed to refer Patient G to his primary doctor or an internist, to an orthopedic surgeon or a hand surgeon, and to a headache specialist, or failed to document such referrals.
  7. Concerning neurodiagnostic studies:
    - a. The Respondent inappropriately and unlawfully allowed a technician to perform EMG studies and then signed the EMG reports as though the Respondent himself had performed the studies.
    - b. The Respondent failed to order and/or supervise and/or perform motor NCV studies, or failed to document such a motor NCV studies.
    - c. The Respondent failed to supervise and/or perform sensory NCV study calculations correctly.

## **SPECIFICATIONS OF MISCONDUCT**

### **FIRST THROUGH SIXTH SPECIFICATIONS (PRACTICING MEDICINE FRAUDULENTLY)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the following:

1. The facts set forth in paragraphs B, B(4)(b), and/or B(7)(b).
2. The facts set forth in paragraphs C, C(5)(b), and/or C(7)(a).
3. The facts set forth in paragraphs D, and/or D(4)(b).
4. The facts set forth in paragraphs E, and/or E(4)(b).
5. The facts set forth in paragraphs F, F(4)(b), and/or F(5)(a).
6. The facts set forth in paragraphs G, G(5)(b), and/or G(7)(a).

### **SEVENTH THROUGH TWELFTH SPECIFICATIONS (FAILING TO COMPLY WITH STATE LAWS)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(16) by willfully or in a grossly negligent way failing to comply with substantial provisions of State law, namely Public Health Law Sections 8212, 8214, and 8216, as alleged in the following:

7. The facts set forth in paragraphs B, and/or B(4)(b).
8. The facts set forth in paragraphs C, and/or C(5)(b).
9. The facts set forth in paragraphs D, and/or D(4)(b).
10. The facts set forth in paragraphs E, and/or E(4)(b).
11. The facts set forth in paragraphs F, and/or F(4)(b).

12. The facts set forth in paragraphs G, and/or G(5)(b).

**THIRTEENTH THROUGH SIXTEENTH SPECIFICATIONS  
(IMPROPERLY DELEGATING PROFESSIONAL RESPONSIBILITIES)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(25) by delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, as alleged in the following:

13. The facts set forth in paragraphs B, and/or B(7)(b).
14. The facts set forth in paragraphs C, and/or C(7)(a).
15. The facts set forth in paragraphs F, and/or F(5)(a).
16. The facts set forth in paragraphs G, and/or G(7)(a).

**SEVENTEENTH THROUGH TWENTIETH SPECIFICATIONS  
(PERMITTING, AIDING OR ABETTING  
UNLICENSED PERSONS TO PRACTICE MEDICINE)**

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

17. The facts set forth in paragraphs B, and/or B(7)(b).
18. The facts set forth in paragraphs C, and/or C(7)(a).
19. The facts set forth in paragraphs F, and/or F(5)(a).
20. The facts set forth in paragraphs G, and/or G(7)(a).

**TWENTY-FIRST THROUGH TWENTY-SEVENTH 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:

21. The facts set forth in paragraphs A, A(1), and/or A(2).
22. The facts set forth in paragraphs B, B(1), B(2), B(3)(a-d), B(4)(a-b), B(5), B(6), and/or B(7)(a-h).
23. The facts set forth in paragraphs C, C(1), C(2), C(3)(a-d), C(4), C(5)(a-b), C(6), and/or C(7)(a-c).
24. The facts set forth in paragraphs D, D(1), D(2), D(3)(a-c), and/or D(4)(a-b).
25. The facts set forth in paragraphs E, E(1), E(2), E(3)(a-b), E(4)(a-b), and/or E(5).
26. The facts set forth in paragraphs F, F(1), F(2), F(3)(a-c), F(4)(a-b), and/or F(5)(a-f).
27. The facts set forth in paragraphs G, G(1), G(2), G(3), G(4)(a-b), G(5)(a-b), G(6), and/or G(7)(a-c).

**TWENTY-EIGHTH THROUGH THIRTY-FOURTH 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:

28. The facts set forth in paragraphs A, A(1), and/or A(2).

29. The facts set forth in paragraphs B, B(1), B(2), B(3)(a-d), B(4)(a-b), B(5), B(6), and/or B(7)(a-h).
30. The facts set forth in paragraphs C, C(1), C(2), C(3)(a-d), C(4), C(5)(a-b), C(6), and/or C(7)(a-c).
31. The facts set forth in paragraphs D, D(1), D(2), D(3)(a-c), and/or D(4)(a-b).
32. The facts set forth in paragraphs E, E(1), E(2), E(3)(a-b), E(4)(a-b), and/or E(5).
33. The facts set forth in paragraphs F, F(1), F(2), F(3)(a-c), F(4)(a-b), and/or F(5)(a-f).
34. The facts set forth in paragraphs G, G(1), G(2), G(3), G(4)(a-b), G(5)(a-b), G(6), and/or G(7)(a-c).

**THIRTY-FIFTH 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:

35. The facts set forth in paragraphs A, A(1), A(2), B, B(1), B(2), B(3)(a-d), B(4)(a-b), B(5), B(6), B(7)(a-h), C, C(1), C(2), C(3)(a-d), C(4), C(5)(a-b), C(6), C(7)(a-c), D, D(1), D(2), D(3)(a-c), D(4)(a-b), E, E(1), E(2), E(3)(a-b), E(4)(a-b), E(5), F, F(1), F(2), F(3)(a-c), F(4)(a-b), F(5)(a-f), G, G(1), G(2), G(3), G(4)(a-b), G(5)(a-b), G(6), and/or G(7)(a-c).

**THIRTY-SIXTH 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:

36. The facts set forth in paragraphs A, A(1), A(2), B, B(1), B(2), B(3)(a-d), B(4)(a-b), B(5), B(6), B(7)(a-h), C, C(1), C(2), C(3)(a-d), C(4), C(5)(a-b), C(6), C(7)(a-c), D, D(1), D(2), D(3)(a-c), D(4)(a-b), E, E(1), E(2), E(3)(a-b), E(4)(a-b), E(5), F, F(1), F(2), F(3)(a-c), F(4)(a-b), F(5)(a-f), G, G(1), G(2), G(3), G(4)(a-b), G(5)(a-b), G(6), and/or G(7)(a-c).

**THIRTY-SEVENTH THROUGH FORTY-THIRD 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:

37. The facts set forth in paragraphs A, A(1), and/or A(2).
38. The facts set forth in paragraphs B, B(1), B(2), B(3)(a-d), B(4)(a-b), B(5), B(6), and/or B(7)(a-h).
39. The facts set forth in paragraphs C, C(1), C(2), C(3)(a-d), C(4), C(5)(a-b), C(6), and/or C(7)(a-c).
40. The facts set forth in paragraphs D, D(1), D(2), D(3)(a-c), and/or D(4)(a-b).
41. The facts set forth in paragraphs E, E(1), E(2), E(3)(a-b), E(4)(a-b),

and/or E(5).

42. The facts set forth in paragraphs F, F(1), F(2), F(3)(a-c), F(4)(a-b), and/or F(5)(a-f).
43. The facts set forth in paragraphs G, G(1), G(2), G(3), G(4)(a-b), G(5)(a-b), G(6), and/or G(7)(a-c).

**FORTY-FOURTH THROUGH FIFTIETH SPECIFICATIONS  
(ORDERING EXCESSIVE TESTS AND TREATMENT)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(35) by ordering excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient, as alleged in the following:

44. The facts set forth in paragraphs A, and/or A(2).
45. The facts set forth in paragraphs B, B(3)(a-c), B(4)(a), and/or B(7)(c, g).
46. The facts set forth in paragraphs C, C(3)(a-c), and/or C(5)(a).
47. The facts set forth in paragraphs D, D(3)(a-c), and/or D(4)(a).
48. The facts set forth in paragraphs E, E(3)(a-b), and/or E(4)(a).
49. The facts set forth in paragraphs F, F(3)(a-c), F(4)(a), and/or F(5)(b, e).
50. The facts set forth in paragraphs G, G(4)(a-b), and/or G(5)(a).

DATED: March 7, 2005  
Albany, New York



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



## EXHIBIT "B"

### **Terms of Probation**

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent 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; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or are necessary to protect the public health.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC

offices.

8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
9. Respondent shall limit his medical practice to no more than 10 hours per week and shall limit the site of his medical practice to his current location at 664 Columbia Turnpike, East Greenbush, NY 12061. In addition, the Respondent shall not associate in any professional way, directly or indirectly, with Albany Multi-Medicine, P.C., or Albany Multi-Medicine Group, P.C., or any of their former or current physicians, chiropractors, physical therapists, acupuncturists, electromyography and nerve conduction velocity technicians, or management or billing staff.
10. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

## EXHIBIT "C"

### **GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more) OF A MEDICAL LICENSE**

1. Respondent shall cease the practice of medicine in compliance with the terms of the Consent and Surrender Order. Upon the surrender of his license, Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Prior to the surrender of his license, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty (30) days of the surrender of his license, Respondent shall have his or her original license to practice medicine in New York State and current biennial registration delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty (30) days of the surrender of his license, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six (6) years after the last date of service, and, for minors, at least six (6) years after the last date of service or three (3) years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within fifteen (15) days of the surrender of his license, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within fifteen (15) days of the surrender of his license, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.
7. Within fifteen (15) days of the surrender of his license, Respondent shall remove from the public domain any representation that Respondent is

eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by himself or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the surrender of his license.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six (6) months or more pursuant to this Order, Respondent shall, within ninety (90) days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the Order's effective date.
10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four (4) years, under Section 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under Section 230-a of the Public Health Law.