



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

January 14, 1993

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jean Breasler, Esq.  
NYS Department of Health  
5 Penn Plaza - Sixth Floor  
New York, New York 10001-1810

Terry K. Carmony, R.P.A.  
Compac No. 6  
Higgins Road  
Mobile, Al 36619

**RE: In the Matter of Terry R. Carmony, R.P.A.**

Dear Ms. Breasler and Mr. Carmony:

Enclosed please find the Determination and Order (No. BPMC-93-07) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

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 than 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), "(t)he 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 all action 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.

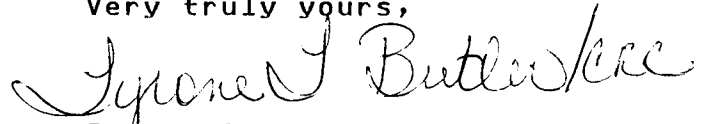
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Corning Tower - Room 2503  
Empire State Plaza  
Albany, New York 12237-0030

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.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler/crc". The signature is written in black ink and is positioned above the typed name.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:crc  
Enclosure

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

-----X  
IN THE MATTER ; DETERMINATION  
OF ; AND  
TERRY R. CARMONEY, R.P.A. ; ORDER  
-----X ORDER NO. BPMC-93-07

ALVIN RUDORFER, D.O., Chairman, FRANK J. KING, R.P.A.  
and PEARL D. FOSTER, M.D. duly designated members of the  
State Board for Professional Medical Conduct, appointed by  
the Commissioner of Health of the State of New York pursuant  
to Section 230(1) of the Public Health Law, served as the  
Hearing Committee in this matter pursuant to Section  
230(10)(e) of the Public Health Law. MICHAEL P. MCDERMOTT,  
ESQ., Administrative Law Judge, served as Administrative  
Officer for the Hearing Committee.

After consideration of the entire record, the Hearing  
Committee issues this Determination and Order.

**SUMMARY OF THE PROCEEDINGS**

Notice of Hearing and Statement of Charges:	October 27, 1992
Pre-Hearing Conference:	November 30, 1992
Hearing Dates:	December 2, 1992
Place of Hearing:	NYS Department of Health 5 Penn Plaza New York, NY
Date of Deliberations:	December 2, 1992
Petitioner appeared by:	Peter J. Millock, Esq. General Counsel NYS Department of Health By: Jean Bresler, Esq. Associate Counsel



Registered Physician's Assistant in the State of New York under registration number 003678 issued by the State Education Department (Pet's. Ex. 1 and 2).

2. The Respondent was personally served with the Notice of Hearing and Statement of Charges in this matter on October 31, 1992, at Compac No. 6, Higgins Road, Mobile, Alabama (Pet's. Ex. 1).

3. The Respondent was employed as a Physician's Assistant in the Department of Medicine at St. John's Episcopal Hospital, Far Rockaway, New York from February 8, 1989 to September 15, 1989. His primary responsibility was to care for patients who were designated as "non-teaching" (Pet's. Ex. 1; Tr. 33-34).

4. St. John's Episcopal Hospital has a residency program in internal medicine. The patients at the hospital are classified as either "teaching patients" or "private, non-teaching patients." The "teaching patients" are followed by the resident team in the hospital, whereas the "private, non-teaching patients" are followed by a physicians assistant who communicates with the patient's private attending physician.

Patients A and B were both "teaching patients" (Tr. 16-18, 34, 43-45, 49, 74).

#### **FINDINGS AS TO PATIENT A**

5. Patient A, a 34 year old female, was admitted to St. John's Episcopal Hospital on September 6, 1989 (Pet's.

Ex. 3).

6. At approximately 8:45 pm on September 11, 1989, the Respondent entered Patient A's room, identified himself as a medical doctor, and informed the patient that he wanted to examine her (Pet's Exs. 6 and 7; Tr. 13-16, 37).

7. During the course of the purported physical examination, the Respondent did not wear any gloves. He fondled Patient A's breasts and stated: they all call me a dirty old man (Pet's. Ex. 6 and 7; Tr. 16, 36-38, 46).

8. Patient A immediately reported the Respondent's conduct to a floor nurse (Pet's. Ex. 6 and 7; Tr. 13-16).

9. On the following day, Patient A identified the Respondent as the person who committed the aforesaid acts from an array of fifteen photographs (Pet's. Ex. 7; Tr. 38-40, 67-68).

10. Patient A was a "teaching patient", and the Respondent was not responsible for her treatment and care at St. John's Episcopal Hospital (Tr. 16-18, 34, 43-45).

11. Patient A died on January 5, 1990 (Pet's. Ex. 10).

#### **FINDINGS AS TO PATIENT B**

12. Patient B, a 35 year old female, was hospitalized at St. John's Episcopal Hospital between June 10, 1989 and July 19, 1989 (Pet.'s Ex. 4).

13. During the course of Patient B's hospitalization, the Respondent entered Patient B's room, identified himself as a medical doctor, and informed her that he wanted to

examine her (Pet's. Ex. 8; Tr. 42).

14. During the course of the purported physical examination of Patient B's abdominal incision, the Respondent did not wear any gloves and he fondled her breasts (Pet's. Ex. 8; Tr. 42, 73, 91).

15. Patient B again asked the Respondent if he was really a doctor and he answered: No, I'm not a doctor (Pet's. Ex. 8).

16. Patient B then observed the Respondent with his hands in his pants pockets rubbing his penis (Pet's Ex. 8; Tr. 74).

17. Before leaving the room, the Respondent asked Patient B, "How do you have sex?" (Pet's. Ex. 8).

18. Patient B reported the incident to the patient representative on September 12, 1989 (Pet's. Ex. 8; Tr. 42, 45).

19. Patient B identified the Respondent as the person who committed the aforesaid acts from an array of fifteen photographs (Tr. 45, 76-77).

20. Patient B was a "teaching patient," and the Respondent was not responsible for her treatment and care at St. John's Episcopal Hospital (Tr. 49, 74).

21. Patient B died on June 3, 1990 (Pet's. Ex. 11).

#### **ACTION BY THE HOSPITAL**

22. On September 13, 1989, at a meeting attended by the Respondent, the Chairman of Medicine, the Associate



Chairman of Medicine, the Associate Administrator and the hospital's Risk Manager, the Respondent was informed that he was being suspended pending further investigation.

Subsequently, the Respondent's employment as a Physician's Assistant at St. John's Episcopal Hospital was terminated "for cause" as a result of the incidents involving Patients A and B (Tr. 44, 47-49, 56).

### **CONCLUSIONS**

Based upon the evidence in the case, the Hearing Committee unanimously (3-0) concludes that the Respondent, a Registered Physician's Assistant, knowingly and with an intent to deceive, falsely represented to both Patients A and B that he was a doctor, and under that guise, he conducted purported physical examinations, during the course of which, he fondled the patients' breasts.

The Respondent had absolutely no valid reason to examine either Patient A or B at any time.

The Hearing Committee determines that the Respondent's behavior toward Patients A and B constitutes practicing the profession fraudulently; willfully harassing and abusing a patient; and evidences moral unfitness to practice the profession.

### **VOTE OF THE HEARING COMMITTEE**

All Votes were unanimous unless otherwise specified.

### **FIRST AND SECOND SPECIFICATION: (FRAUD)**

**SUSTAINED** as to the charges specified in paragraphs A and A1, B and B1 of the Statement of Charges

**THIRD AND FOURTH SPECIFICATION: (WILLFULLY HARASSING AND ABUSING A PATIENT)**

**SUSTAINED** as to the charges specified in paragraphs A and A1, B and B1 of the Statement of Charges

**FIFTH SPECIFICATION: (MORAL UNFITNESS)**

**SUSTAINED** as to the charges specified in paragraphs A and A1, B and B1 of the Statement of Charges

**DETERMINATION**

The Hearing Committee has considered the full spectrum of available penalties, including revocation, suspension, probation, censure and reprimand or the imposition of civil penalties not exceed \$10,000 per violation.

The Hearing Committee did not vote to sustain the charges against the Respondent simply on the basis of the Respondent's failure to appear, but because the credible evidence presented by the Petitioner raised the legal presumption of the truth of these facts. In short, the Petitioner proved its case by a preponderance of the evidence, and said evidence was not contradicted.

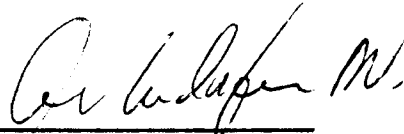
The Hearing Committee has **SUSTAINED** the charges of 1) Fraud, 2) Willfully harassing and abusing a patient and 3) Moral Unfitness against the Respondent.

The Hearing Committee determines unanimously (3-0) that **REVOCATION** is the only appropriate penalty for each and every charge.

ORDER

**ORDERED**, that the Respondent's registration as a  
Registered Physician's Assistant in the State of New York is  
**REVOKED**.

Dated: New York, New York  
Jan. 7<sup>th</sup> 1993, 1992



**ALVIN RUDORFER, D.O.**  
Chairman

**PEARL D. FOSTER, M.D.**  
**FRANK J. KING, R.P.A.**

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
TERRY R. CARMONEY, R.P.A. : CHARGES

-----X

TERRY R. CARMONEY, R.P.A., the Respondent, was authorized to perform medical services as a physician's assistant in New York State on January 24, 1989 by the issuance of registration number 003678 P.A. by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department and was last registered for the period January 1, 1987 through December 31, 1989 at 19 Laurel Court, Cresson, Pa. 16630.

FACTUAL ALLEGATIONS

- A. On or about September 11, 1989 Patient A, a 34 year old woman, was hospitalized at Saint Johns Episcopal Hospital, Far Rockaway, N.Y. (The identity of Patient A and the other patients is contained in the Appendix.) From on or about February 8, 1989 to September 15, 1989, the Respondent was employed as a physician's assistant at Saint John's Episcopal Hospital, Far Rockaway, New York.

1. On September 11, 1989 the Respondent entered Patient A's room and identified himself as a medical doctor. Respondent knew this representation was false and misleading. Respondent then informed the patient that he wanted to examine her. During the course of what Respondent purported to be an examination of Patient A, he fondled her breasts and stated that he was a dirty old man. Patient A immediately reported the Respondent's conduct to a floor nurse and the following day identified the Respondent as the person who committed the aforesaid mentioned acts from a photo array of fifteen photographs.
- B. Patient B, a 35 year old female was a patient at Saint John's Episcopal Hospital in Far Rockaway, New York between June 10, 1989 and July 19, 1989.
1. During the course of this admission the Respondent entered her room and identified himself as a medical doctor. Respondent knew this representation was false and misleading. Respondent then informed the patient that he wanted to examine her. During the course of what Respondent purported to be a physical examination of the patient's abdominal incision, the Respondent fondled the patient's breast. Patient B

then asked again if the Respondent was really a doctor, to which Respondent answered no. Patient B then observed the Respondent with his hands in his pants pockets rubbing his penis. Before leaving the room, the Respondent asked Patient B the question "how do you have sex". Patient B reported this incident to the patient representative on September 12, 1989 and identified the Respondent as the person who committed the aforesaid mentioned acts, from a photo array of fifteen photographs.

#### SPECIFICATION OF CHARGES

#### FIRST AND SECOND SPECIFICATIONS

#### FRAUD

The Respondent is charged with practicing the profession fraudulently within the meaning of N.Y. Educ. Law Section 6530(2) (McKinney Supp. 1992), in that Petitioner charges the following:

1. The facts in paragraph A and A1.
2. The facts in paragraph B and B1.

THIRD AND FOURTH SPECIFICATIONS

WILLFULLY HARASSING AND ABUSING A PATIENT

The Respondent is charged with willfully harassing and/or abusing patients physically and or verbally within the meaning of N.Y. Educ. Law Section 6530(31) (McKinney Supp. 1992), in that Petitioner charges the following:

3. The facts in paragraph A and A1.
4. The facts in paragraph B and B1.

FIFTH SPECIFICATION

MORAL UNFITNESS

The Respondent is charged with conduct in the practice of medicine which evidences moral unfitness to practice medicine within the meaning of N.Y. Educ. Law Section 6530(20) (McKinney Supp. 1992), in that Petitioner charges the following:

5. The facts in paragraphs A and A1 and/or B and B1.

DATED: New York, New York

October 27, 1992

A handwritten signature in black ink, appearing to read "Chris Stern Hyman", written over a horizontal line.

CHRIS STERN HYMAN  
COUNSEL

Bureau of Professional Medical  
Conduct