



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

July 3, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frederick Zimmer, Esq.
NYS Department of Health
Corning Tower - Room 2438
Empire State Plaza
Albany, New York 12237

John P. Famolaro, P.A.
Consolidated Medical Clinic
46 Road 84
Maddi, Cairo, Egypt

Effective Date: 07/10/96

RE: In the Matter of John P. Famolaro, P.A.

Dear Mr. Zimmer and Mr. Famolaro:

Enclosed please find the Determination and Order (No. BPMC-96-153) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays 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
Empire State Plaza
Corning Tower, Room 2503
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.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

COPY

IN THE MATTER
OF
JOHN P. FAMOLARO, P.A.

DETERMINATION
AND
ORDER

BPMC-96-153

DENISE BOLAN, R.P.A. Chairperson, **MOHAMMAD GHAZI-MOGHADAM, M.D.**, and **DAVID T. LYON, 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 Sections 230(1)(e) and 230(12) of the Public Health Law. Administrative Law Judge, **CHRISTINE C. TRASKOS, ESQ.**, served as Administrative Officer for the Hearing Committee. The Department of Health appeared by **HENRY M. GREENBERG, GENERAL COUNSEL, FREDERICK ZIMMER, ESQ.**, Assistant Counsel, of Counsel. The Respondent did not appear in person and was not represented by counsel. Evidence was received, witnesses sworn and heard, and transcripts of these proceedings were made.

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

STATEMENT OF CHARGES

The accompanying Statement of Charges allege five (5) specifications of professional misconduct, including allegations of professional misconduct within the meaning of New York Education Law §6530(9)(b) and (d), practicing the profession fraudulently, willfully harassing a patient and moral unfitness to practice medicine. The charges are more specifically set forth in the Statement of Charges, a copy of which is attached hereto and made a part of this Determination and Order.

SUMMARY OF PROCEEDINGS

Notice of Hearing Date:	January 31, 1996
Pre-Hearing Conference:	NONE
Hearing Date:	April 22, 1996
Deliberation Date:	April 22, 1996
Place of Hearing:	NYS Department of Health Cultural Education Building Conference Room E Empire State Plaza Albany, New York 12237

WITNESSES

For the Petitioner:

Anita L. Harrison

FINDINGS OF FACT

Numbers in parenthesis refer to transcript pages or exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited.

GENERAL FINDINGS

1. Respondent was licensed to practice medicine as a physician assistant in the State of New York on October 23, 1987 by issuance of registration number 003401 by the New York State Education Department. (Ex. 2)
2. Respondent, on or about November 12, 1992, while employed as a physician assistant at the Slocum-Dickson Medical Group, P.C., 1729 Burrstone Road, New Hartford, New York, provided medical care to Patient A. (Ex. 3, p. 8)
3. On or about November 18, 1992, Patient A received a letter from Respondent stating that "Ever since I saw you last night at Urgent Care, I can't get you off my mind." Respondent, in his letter, inquired whether Patient A would like to have a drink or dinner with him and knowingly and intentionally signed the note "Dr. John Famolaro" when Respondent was not in fact a physician. (Ex. 4)

4. Respondent obtained Patient A's address from the records maintained by the Slocum-Dickson Medical Group. (T 28)
5. As a result of the aforementioned actions, the Office of Professional Medical Conduct (OPMC) issued an administrative warning letter dated December 20, 1993. The letter stated that an investigative committee of the Board of Professional Medical Conduct concluded that Respondent's behavior toward Patient A was both "unethical and improper." (Ex. 5)
6. On March 15, 1995 the Wyoming Board of Medicine (hereinafter the "Wyoming Board"), summarily suspended Respondent's physician assistant's certificate on the grounds that the public health, safety and welfare imperatively required this emergency action. (Ex. 7)
7. By an Order dated April 6, 1995, the Wyoming Board permanently revoked Respondent's physician assistant's certificate. (Ex. 6)
8. The Wyoming Board's Order followed a stipulation dated April 6, 1995 signed by the Wyoming Board and Respondent, pursuant to which it was agreed that, through the acts alleged by the Wyoming Board in their Amended Complaint dated March 16, 1995, Respondent had violated the Wyoming Medical Practice Act. Respondent also admitted that he committed the acts alleged in the Wyoming Board's Amended Complaint. Specifically, Respondent admitted, among other things, to the following acts:
 - (1) Respondent on or about November 4, 1994, contacted K.M. and persuaded her to meet him at the Hilton Bar for a job interview for a nursing position. During the course of his meeting with K.M., Respondent falsely represented that he was a physician and later put his arm around K.M.'s shoulder and hugged her to him while walking her to her car.

(2) Respondent, on or about November 11, 1994, called K.K. after retrieving her telephone number from her personal medical file, and asked her for a date.

(3) Respondent, on or about November 29, 1994, received a telephone call from K.C. asking Respondent for medical advice, at which time he said "if you ever get divorced, let me know." Thereafter, Respondent called K.C. at work and impersonated a Dr. Swedberg for the purpose of inducing K.C. to take the phone call. He then advised K.C. that she needed to have a pap and pelvic exam. When K.C. advised Respondent that she had just had a normal exam two months prior to this conversation, Respondent advised her that he had already set an appointment for her with him at 10:00 a.m. on November 30, 1994. After further discussion, Respondent stated he was joking and asked K.C. to dinner and a movie.

(4) Respondent, on or about January 13 and 14, 1995 and thereafter, falsely represented that he was a doctor to R.O. with whom he began a romantic relationship. Respondent wrote several prescriptions for R.O. for back pain including prescriptions for Larocet and Darvocet.

(5) Respondent, on a number of occasions, requested Larocet from R.O. for his own use. On or about February 21, 1995, after writing a prescription for R.O. for thirty capsules of Darvocet, Respondent took some of the Darvocet capsules. Thereafter, R.O. discovered that the prescription bottle had been emptied in the bottom of her purse and 14 of the Darvocet capsules were missing.

(6) Respondent, on one occasion, provided to R.O. a bottle of prescription drugs which he characterized as a "mild relaxer". R.O. had a negative hallucinogenic type reaction when she took one of the pills. Respondent left the bottle of pills at R.O.'s home. R.O. thereafter noticed that the label indicated that the prescription was written for "Barbara" by a physician in Rapid City, South Dakota.

(7) Respondent, on one occasion, stated that he was having shoulder pain and that as a doctor he could not write a prescription for himself. Respondent suggested to R.O. that he write a prescription for Larocet for C.T. and that C.T. have the prescription filled and bring back the pills for his own use. Respondent thereafter wrote a prescription for C.T. which she filled and brought back to R.O. who provided the Larocet to Respondent.

(8) Respondent, on or about March 11, 1995, ransacked R.O.'s home and took the pill bottle with medication prescribed by the Rapid City, South Dakota physician. When R.O. asked Respondent to explain his actions, he responded "to cover my ass".

(9) Respondent, on or about October 19, 1994, for the purpose of acquiring credentials at the Wyoming Medical Center, Casper, Wyoming, secured and presented to his supervising physician a prior practice disclosure form purportedly from Dr. James O'Malley of the Slocum [sic] Dickson Medical Group, New Hartford, New York. Such form was a forgery and the signature placed thereon was not the signature of Dr. O'Malley. (Ex. 7)

9. Respondent, on or about June 25, 1995, filed an Application for Privileges for Allied Health Professionals with the Delaware Valley Hospital, 1 Titus Place, Walton, New York 13856. On page 3 of that application, Respondent knowingly and intentionally checked "no" in response to the question "Has your license to practice in any jurisdiction ever been suspended, revoked or voluntarily surrendered?". As indicated above, Respondent's Physician Assistant Certificate had been revoked by the State of Wyoming. (Ex. 8)

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless notes otherwise.

The Hearing Committee concluded that the following Factual Allegations should be sustained. The citations in parenthesis refer to the Findings of Fact which support each Factual Allegation:

- Paragraph A: (6 through 8)
- Paragraph B: (6 through 8)
- Paragraph C: (6 through 8)
- Paragraph D: (2 through 5)
- Paragraph E: (9)

The Hearing Committee further concluded that the following Specifications should be sustained. The citations in parenthesis refer to the Factual Allegations which support each specification:

**PROFESSIONAL MISCONDUCT UNDER §6530(9)(B) OF THE
N.Y. EDUCATION LAW**

First Specification: (Paragraph A through A.9)
(Paragraph B through B.5)
(Paragraph C through C.5)

**PROFESSIONAL MISCONDUCT UNDER §6530(9)(D) OF THE
N.Y. EDUCATION LAW**

Second Specification: (Paragraph A through A.9)
(Paragraph B through B.5)
(Paragraph C through C.5)

PRACTICING THE PROFESSION FRAUDULENTLY

Third Specification: (Paragraph E)

WILLFULLY HARASSING A PATIENT

Fourth Specification: (Paragraph D)

MORAL UNFITNESS TO PRACTICE MEDICINE

Fifth Specification: (Paragraph D and E)

DISCUSSION

Respondent is charged with five (5) specifications alleging professional misconduct within the meaning of Education Law Section 6530. The Hearing Committee unanimously concluded, by a preponderance of the evidence, that all five (5) of the specifications of professional misconduct should be sustained. The rationale for the Committee's conclusions regarding each specification of misconduct is set forth below.

PROFESSIONAL MISCONDUCT UNDER §6530 (9) (b) OF THE EDUCATION LAW

§ 6530(9) (b) of the Education Law defines professional misconduct as "having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state." The Hearing Committee finds that the evidence clearly indicates that Respondent admitted to acts in violation of the Wyoming Medical Practice Act. These acts included Respondent's misrepresentation of himself as a physician for his own personal gain and prescribing drugs without the authorization of a licensed physician. As a result, the Hearing Committee sustains the First Specification.

PROFESSIONAL MISCONDUCT UNDER §6530 (9) (d) OF THE EDUCATION LAW.

§6530 (9) (d) of the Education Law defines professional misconduct in part as having one's license revoked by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct under the laws of New York State. Again, the Hearing Committee finds that Respondent admitted to violations of the Wyoming statutes, as discussed in the previous paragraph. As a result, Respondent's license was revoked. Therefore, the Hearing Committee sustains the Second Specification.

PRACTICING THE PROFESSION FRAUDULENTLY

The Hearing Committee finds that Respondent knowingly lied on his 1995 application for privileges at Delaware Valley Hospital with respect to his revoked license in Wyoming. Therefore, the Third Specification is sustained.

WILLFULLY HARASSING A PATIENT

The Hearing Committee found the testimony of Anita L. Harris, the Department's investigator to be credible surrounding Respondent's interaction with Patient A in 1992. The hearing Committee further finds that Respondent's own hand written note (Ex. 4) indicates his willingness to misrepresent himself as a physician to advance himself socially with female patients. The Hearing Committee finds his behavior to be not only unethical and improper, but also harassment of a patient. Therefore, the Fourth Specification is sustained.

MORAL UNFITNESS TO PRACTICE MEDICINE

The Hearing Committee finds that the combination of Respondent's misrepresentation of himself as a physician and his untruthfulness regarding his license revocation in Wyoming constitutes moral unfitness. Therefore, the Fifth Specification is sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, determined by a unanimous vote that Respondent's physician assistant's license in New York State should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The Hearing Committee is disturbed by Respondent's repeated misrepresentation of himself as a physician, as well as his misappropriation of drugs. Respondent was warned in 1992 by the Office of Professional Medical Conduct that his behavior was unethical and improper, but he continued his pattern of misconduct in Wyoming until his license was revoked. The Hearing Committee is further concerned that Respondent lied about his Wyoming revocation in his attempt to return to work in a New York State hospital. The Hearing Committee believes that Respondent suffers from a serious character flaw and is morally unfit to practice as a physician assistant. The record indicates that Respondent has sufficient connections with New York State and he may be inclined to again seek employment here. The Hearing Committee believes that Respondent's license must be revoked to protect the public against future acts of misrepresentation and deceitfulness.

ORDER

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

1. The First through Fifth Specifications are **SUSTAINED.**
2. Respondent's license to practice as a physician assistant in New York State is **REVOKED.**
3. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Newcomb, New York

July 1, 1996

Denise Bolan, RPA-C
DENISE BOLAN, R.P.A.
(Chair)

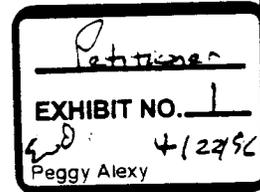
MOHAMMAD GHAZI-MOGHADAM, M.D.
DAVID T. LYON, M.D.

DL

TO: Frederick Zimmer, Esq.
NYS Department of Health
Corning Tower-Room 2438
Empire State Plaza
Albany, New York 12237

John P. Famolaro, P.A.
Consolidated Medical Clinic
46 Road 84
Maddi, Cairo, Egypt

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



-----X
IN THE MATTER : NOTICE
OF : OF
JOHN P. FAMOLARO, P.A., : HEARING
Respondent :
-----X

TO: JOHN P. FAMOLARO, P.A.
Consolidated Medical Clinic
46 Road 84
Maddi, Cairo, Egypt

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1996, and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1996). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 22nd day of April 1996 at 10:00 in the forenoon of that day at Room E on the Concourse Level of the Cultural Education Center, New York State Museum, Empire State Plaza, Albany, New York and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on

your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Administrative Law Judge's Office, Empire State Plaza, Tower Building, 25th Floor, Albany, New York 12237, (518-473-1385), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1996), you may file an answer to the Statement of Charges not less than ten days prior to the date of the hearing. If you wish to raise an affirmative defense, however, N.Y. Admin. Code tit. 10, Section 51.5(c) requires that an answer be filed, but allows the filing of such an answer until three days prior to the date of the hearing. Any answer shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any

deaf person.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO THE OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a (McKinney Supp. 1996). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
January 31, 1996


PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to:

Frederick Zimmer
Assistant Counsel
Division of Legal Affairs
Bureau of Professional
Medical Conduct
Corning Tower Building
Room 2429
Empire State Plaza
Albany, New York 12237-0032
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
JOHN P. FAMOLARO, P.A., : CHARGES
Respondent :

-----X

JOHN P. FAMOLARO, P.A., Respondent, was authorized to practice medicine as a physician's assistant in New York State on October 23, 1987 by the issuance of registration number 003401 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. The Wyoming Board of Medicine (hereinafter the "Wyoming Board"), on March 15, 1995, summarily suspended Respondent's physician assistant's certificate on the grounds that the public health, safety and welfare imperatively required this emergency action. Thereafter, by an Order dated April 6, 1995, the Wyoming Board permanently revoked Respondent's physician assistant's certificate. The Wyoming Board's Order followed a stipulation dated April 6, 1995 signed by the Wyoming Board and Respondent, pursuant to which it was agreed that, through the acts alleged by the Wyoming Board in their Amended Complaint dated March 16,

1995, Respondent had violated the Wyoming Medical Practice Act. Respondent also admitted that he committed the acts alleged in the Wyoming Board's Amended Complaint. Specifically, Respondent admitted, among other things, to the following acts:

1. Respondent on or about November 4, 1994, contacted K.M. and persuaded her to meet him at the Hilton Bar for a job interview for a nursing position. During the course of his meeting with K.M., Respondent falsely represented that he was a physician and later put his arm around K.M.'s shoulder and hugged her to him while walking her to her car.
2. Respondent, on or about November 11, 1994, called K.K. after retrieving her telephone number from her personal medical file, and asked her for a date.
3. Respondent, on or about November 29, 1994, received a telephone call from K.C. asking Respondent for medical advice, at which time he said "if you ever get divorced, let me know." Thereafter, Respondent called K.C. at work and impersonated a Dr. Swedberg for the purpose of inducing K.C. to take the phone call. He then advised K.C. that she needed to have a pap and pelvic exam. When K.C. advised Respondent that she had just had a normal exam two months prior to this conversation, Respondent advised her that he had already set an appointment for her with him at 10:00 a.m. on November 30, 1994. After further discussion, Respondent stated he was joking and asked K.C. to dinner and a movie.
4. Respondent, on or about January 13 and 14, 1995 and thereafter, falsely represented that he was a doctor to R.O. with whom he began a romantic relationship. Respondent wrote several prescriptions for R.O. for back pain including prescriptions for Larocet and Darvocet.
5. Respondent, on a number of occasions, requested Larocet from R.O. for his own use. On or about February 21, 1995, after writing a prescription for R.O. for thirty capsules of Darvocet, Respondent took some of the Darvocet capsules. Thereafter, R.O. discovered that the prescription bottle had been emptied in the bottom of her purse and 14 of the Darvocet capsules were missing.

6. Respondent, on one occasion, provided to R.O. a bottle of prescription drugs which he characterized as a "mild relaxer". R.O. had a negative hallucinogenic type reaction when she took one of the pills. Respondent left the bottle of pills at R.O.'s home. R.O. thereafter noticed that the label indicated that the prescription was written for "Barbara" by a physician in Rapid City, South Dakota.
7. Respondent, on one occasion, stated that he was having shoulder pain and that as a doctor he could not write a prescription for himself. Respondent suggested to R.O. that he write a prescription for Lorcet for C.T. and that C.T. have the prescription filled and bring back the pills for his own use. Respondent thereafter wrote a prescription for C.T. which she filled and brought back to R.O. who provided the Lorcet to Respondent.
8. Respondent, on or about March 11, 1995, ransacked R.O.'s home and took the pill bottle with medication prescribed by the Rapid City South Dakota physician. When R.O. asked Respondent to explain his actions, he responded "to cover my ass".
9. Respondent, on or about October 19, 1994, for the purpose of acquiring credentials at the Wyoming Medical Center, Casper, Wyoming, secured and presented to his supervising physician a prior practice disclosure form purportedly from Dr. James O'Malley of the Solcum [sic] Dickson Medical Group, New Hartford, New York. Such form was a forgery and the signature placed thereon was not the signature of Dr. O'Malley.

B. The acts admitted to by Respondent constitute violations of the following provisions of Wyoming statutes and regulations:

1. W.S. §33-26-508(a)(ii) and Chapter (v), §3(y)(ii) of the Wyoming Rules which provides that the Wyoming Board may revoke a physician assistant certificate if the physician assistant represents that he is a licensed physician.

2. W.S. §33-26-508 (a) (viii) (A) and Chapter (v) §3 (y) (xv) of the Wyoming rules which provide that the Wyoming Board may revoke a physician assistant certificate for unprofessional or dishonorable conduct including conduct contrary to recognized standards of ethics.
3. W.S. §33-26-508 (a) (vi), W.S. §33-26-510 and Chapter (v) §3 (y) (xi) of the Wyoming Rules which provide that the Wyoming Board may revoke a physician assistant's certificate for prescribing drugs in a manner which violates Chapter (v) §3 (y) (xi) of the Wyoming rules and W.S. §33-26-510.
4. W.S. §33 26-508 (a) (vi) and Chapter 5 §3(xiii) of the Wyoming Rules which provide that the Board may revoke a physician assistant's certificate for repeated use of a drug or intoxicant to such a degree as to render the physician assistant unable to fulfill the duties of the physician assistant with reasonable skill and safety to patients.
5. W.S. §33-26-508 (a) (vii) which provides that the Board may revoke a physician assistant for sexual exploitation of a patient.

C. The conduct admitted to by Respondent and agreed to be in violation of the Wyoming Medical Practice Act, and which resulted in the Wyoming action against Respondent would, if committed in New York State, constitute professional misconduct under the laws of New York State, as follows:

1. N.Y. Educ. Law §6530(2)-[practicing the profession fraudulently]; and/or
2. N.Y. Educ. Law §6530(7)-[practicing the profession while impaired by alcohol or drugs]; and/or
3. N.Y. Educ. Law §6530(8) [being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects]; and/or
4. N.Y. Educ. Law §6530(20) [conduct in the practice of medicine which evidences moral unfitness to practice]; and/or

5. N.Y. Educ. Law §6530(31) - [willfully harassing, abusing or intimidating a person either physically or verbally.]

D. Respondent, on or about November 12, 1992, while employed as a physician's assistant at the Slocum-Dickson Medical Group, P.C., 1729 Burrstone Road, New Hartford, New York, provided medical care to patient A (patient A is identified in the attached Appendix). On or about November 18, 1992, patient A received a letter from Respondent stating that "Ever since I saw you last night at Urgent Care, I can't get you off my mind." Respondent, in his letter, inquired whether patient A would like to have a drink or dinner with him and knowingly and intentionally signed the note "Dr. John Famolaro" when Respondent was not in fact a physician. Respondent obtained patient A's address from the records maintained by the Slocum-Dickson Medical Group.

E. Respondent, on or about June 25, 1995, filed an Application for Privileges for Allied Health Professionals with the Delaware Valley Hospital, 1 Titus Place, Walton, New York 13856. On page 3 of that application, Respondent knowingly and intentionally checked "no" in response to the question "Has your license to practice in any jurisdiction ever been suspended, revoked or voluntarily surrendered?". As indicated above, Respondent's Physician Assistant Certificate had been revoked by the State of Wyoming.

FIRST SPECIFICATION

1. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1996) by reason of his having been found guilty of improper professional practice or professional misconduct by a duly authorized professional agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State in that Petitioner charges:

1. The facts in Paragraph A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9, B, B.1.B.2, B.3, B.4, B.5, C, C.1, C.2, C.3, C.4 and/or C.5.

SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1996) by reason of his having had his license revoked by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct under the laws of New York State in that Petitioner charges:

2. The facts in Paragraph A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9, B, B.1.B.2, B.3, B.4, B.5, C, C.1, C.2, C.3, C.4 and/or C.5.

THIRD SPECIFICATION
PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(2) (McKinney's Supp. 1996) by reason of his having practiced the profession fraudulently, in that Petitioner charges:

3. The facts in Paragraph E.

FOURTH SPECIFICATION
WILLFULLY HARRASSING A PATIENT

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(31) (McKinney Supp. 1996) by reason of his having willfully verbally harassed a patient, in that Petitioner charges:

4. The facts in Paragraph D.

FIFTH SPECIFICATION
MORAL UNFITNESS TO PRACTICE MEDICINE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(20) (McKinney Supp. 1996) by reason of his having engaged in conduct in the practice of

medicine which evidences moral unfitness to practice medicine
in that Petitioner charges:

5. The facts in Paragraphs D and/or E.

DATED: *January 31*, 1996
Albany, New York

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