



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

July 9, 2002

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Robert Bogan, Esq.  
& Paul Robert Maher, Esq.  
NYS Department of Health  
Hedley Park Place – 4<sup>th</sup> Floor  
Troy, New York 12180

Carolyn Shearer, Esq.  
Bond, Schoeneck & King, LLP  
111 Washington Avenue  
Albany, New York 12210-2211

Vinayak Purushottam Bhavalkar, M.D.  
1 Courtney Place  
Bent Tree Apartments #409  
Big Spring, Texas 79720

Vinayak Purushottam Bhavalkar, M.D.  
V.A. Hospital  
Big Spring, Texas 79720

**RE: In the Matter of Vinayak Purushottam Bhavalkar, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 02-219) 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.

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.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

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

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:  
Enclosure

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

IN THE MATTER  
OF  
**VINAYAK PURUSHOTTAM BHAVALKAR, M.D.**

DETERMINATION  
AND  
ORDER  
BPMC #02-219

COPY

A Notice of Referral Proceeding and Statement of Charges, both dated December 5, 2001, were served upon the Respondent, **VINAYAK PURUSHOTTAM BHAVALKAR, M.D.** **PATRICK F. CARONE, M.D.**, Chairperson, **ROBERT KLUGMAN, M.D.** and **NANCY J. MACINTYRE, R.N., Ph.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge served as the Administrative Officer.

A hearing was held on June 19, 2001, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent appeared by **CAROLYN SHEARER, ESQ.**

Evidence was received and transcripts of these proceedings were made.

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



1. **VINAYAK PURUSHOTTAM BHAVALKAR, M.D.**, the Respondent, was authorized to practice medicine in New York State on December 18, 1975, by the issuance of license number 126058 by the New York State Education Department (Ex. 4). Respondent is an orthopedic surgeon.
2. On July 11, 2001, the Commonwealth of Kentucky, State Board of Medical Licensure ("the Kentucky Board") issued an "Agreed Order of Probation" to dispose of findings by a Hearing Officer that Respondent violated Kentucky statutes by sexually harassing a female employee, and thereby "engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof". Respondent agreed to probationary terms that included completion of an approved sexual harassment course; provision by Respondent to all female employees, and obtaining their signatures on, a letter wherein they agreed to immediately report any observed sexual harassment by Respondent; and payment of \$1,575 in administrative costs (Ex. 5).

### **HEARING COMMITTEE CONCLUSIONS**

The hearing Committee concludes that the conduct resulting in the Kentucky Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to New York Education Law §6530(20) (conduct in the practice of medicine which evidences moral unfitness to practice medicine).

## **VOTE OF THE HEARING COMMITTEE**

### **SPECIFICATIONS**

#### **FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) by 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.

**VOTE: SUSTAINED (3-0)**

#### **SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state.

**VOTE: SUSTAINED (3-0)**

#### **HEARING COMMITTEE DETERMINATION**

The record in this case indicates that on July 11, 2001, the Kentucky Board, by adoption of the Agreed Order of Probation, disposed of findings by a hearing officer that Respondent violated Kentucky statutes by sexually harassing a female employee, and thereby "engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof".

Pursuant to Public Health Law §230(10)(p), in order for the simplified hearing procedure under which this hearing was conducted to be applicable, there must be a

violation of §6530(9) of the Education Law. The definitions of misconduct set forth in this statutory provision include the situation where a physician has been “found guilty of improper professional practice or misconduct” (subdivision (b)) and the situation where the licensee has “had disciplinary action taken” (subdivision (d)) by the disciplinary body of another state. Such findings are, in general, given preclusive effect in a hearing under Public Health Law §230(10)(p), which limits the hearable evidence to that addressed to the nature of the penalty only.

The courts have been called upon in a number of instances to address the question of whether, and under what circumstances, a consent order entered into between the disciplinary body of another state and the licensee should be given preclusive effect under this statute. In Sternberg v. Administrative Review Board, 235 A.D.2d 945; 652 N.Y.S.2d 855; 1997 N.Y. App. Div. 767 (January 30, 1997), the Appellate Division, Third Department concluded that it was not improper for a Hearing Committee, when fashioning an appropriate penalty in a case such as this, to consider the nature of the underlying charges when a physician has entered into a consent decree to terminate a disciplinary proceeding. The court concluded that to hold otherwise would be incongruous, for it would insulate from discipline in New York those who have managed, by the simple expedient of voluntarily accepting discipline, to avoid a formal adjudication of guilt in another jurisdiction--the very concern Education Law § 6530(9)(d) was designed to meet.

This ruling was clarified somewhat by the court in the case of Becker v. DeBuono, 239 A.D.2d 664; 657 N.Y.S.2d 471; (May 8, 1997). The court concluded in that case that it was inappropriate to attribute preclusive effect to an administrative consent decree from another state where there had been no findings of wrongdoing and where there had been, in fact, a denial of wrongdoing. However, the court specified that this ruling was

predicated, in part, upon the fact that no hearing was ever held and no findings of guilt made.

In the instant case, a hearing was held and findings of guilt made by a hearing officer, who issued Findings of Fact, Conclusions of Law and a Recommended Order (included in Ex. 5). Respondent's assent to the ultimate probationary order was an alternative to having the Kentucky Board adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, which were incorporated by reference into the findings of fact in the Agreed Order.

The Hearing Officer, who had a chance to hear testimony from the victim, one of Respondent's former employees, and one of Respondent's other employees, concluded that Respondent engaged in a course of conduct of making inappropriate and sexually suggestive remarks to the victim and touching her in an offensive and inappropriate manner, including touching her buttocks, over the course of approximately 6 months, causing her to terminate her employment and file a complaint with the Board. The Hearing Officer specifically concluded that Respondent's testimony as to the allegations was not credible, and that the testimony of the victim and the other employee was credible, for a number of reasons. The Hearing Officer recommended that Respondent's license be placed on probation for an appropriate period and that a directive be issued that any further acts of misconduct subject him to more severe penalties.

Respondent contends, in one of the two legal arguments that formed the sole content of his appeal in this case, that the Hearing Officer's legal conclusion that he had committed misconduct under the applicable Kentucky statute was flawed, and, in effect, that the provision in the Agreed Order that he did not agree that his conduct violated the



Kentucky misconduct statute should, therefore, prevent the Hearing Committee here from relying on the Hearing Officer's findings.

The Kentucky misconduct statute (KRS 311.595(9)) prohibits licensees from engaging in "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof." Examples of the types of behavior covered are enumerated in KRS 311.597, and include, at subdivision (4), "[c]onduct which is calculated or has the effect of bringing the medical profession into disrepute, including, but not limited to...any departure from, or failure to conform to the principles of medical ethics of the American Medical Association..."

The Kentucky Hearing Officer concluded that Respondent violated KRS 311.597(4) by violating A.M.A. Code of Ethics Opinion 3.08 relating to sexual harassment. This opinion is entitled "Sexual Harassment and Exploitation Between Medical Supervisors and Trainees", and it was Respondent's contention that it did not apply to Respondent's situation because the victim was not a "trainee".

However, careful reading of this opinion reveals that it covers just one example of what the A.M.A. apparently considers to be unethical conduct relating to sexual harassment:

Sexual harassment may be defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) such conduct interferes with an individual's work or academic performance or creates an intimidating, hostile, or offensive work or academic environment, or (2) accepting or rejecting such conduct affects or may be perceived to affect employment decisions or academic evaluations concerning the individual. Sexual harassment is unethical.

The remainder of the opinion explains that concerns are raised about trainee/supervisor relationships because of the "inherent inequalities in the status and power" supervisors wield in relation to trainees.

Although this opinion may have been generated to deal with a specific situation, which is not the precise situation in Respondent's case, the underlying principles are clearly applicable here (there is a similar power and prestige imbalance between an office employees and physician, and the same adverse impact upon the work environment). In effect, Respondent's argument is that the A.M.A. Code of Ethics does not prohibit sexual harassment of employees, and this argument is implausible at best.

Similarly, it is clear that the Hearing Officer felt that sexual harassment of employees was misconduct, irrespective of whether the cited A.M.A. opinion specifically applied to this situation or not. The only possible way Respondent's argument that his assent to the Agreed Order should not be construed against him would make sense was if he had a legitimate belief when he signed it that his conduct might not be found unacceptable by the Board. This position is obviously meritless. In addition to the disclaimer in the Order, Respondent also stipulated that "...there is a legal basis for this Agreed Order of Probation...", that "...the Board's acceptance and adoption of the hearing officer's recommended order...would support the imposition of disciplinary sanctions..." upon him, and that the Board could either adopt the recommended order, reject it, modify it or remand the matter for further proceedings.

Furtnermore, Respondent did not testify at the hearing in the instant case. It is well established that an unfavorable inference may be drawn from the failure of a party to testify in an administrative proceeding. Baxter v. Palmigiano, 425 U.S. 308, 96 S.Ct. 1551, 47 L.Ed. 2d 810 (1976). The inference to be drawn is the strongest that can be drawn from the evidence presented against the party. In this case, the inference to be drawn from the evidence is that Respondent entered into the consent agreement in order to avoid what was an inevitable outcome: that the Board would find him guilty of misconduct.

Accordingly, the Hearing Committee concludes that the Agreed Order can be considered as evidence of misconduct in this state, despite the disclaimer. It is next necessary to consider whether the acts described in the Order (incorporated by reference) would have constituted misconduct had they occurred in this state. Respondent contends that they would not. The basis for this conclusion is that the courts in New York have not yet construed behavior such as Respondent's to be misconduct. In support of this position, Respondent cites several New York Appellate Division decisions where findings of misconduct were upheld when physicians engaged in sexual conduct toward patients, co-workers and a medical resident. The gist of Respondent's argument is that the conduct described in these cases is more serious than that involved in the instant case.

These cases do not support the proposition that Respondent's conduct would not constitute misconduct in New York. In the most recent of these cases, Addei v. State Board for Professional Medical Conduct, 278 A.D. 2d 551, 717 N.Y.S. 2d 338 (3<sup>rd</sup> Department., 2000), the Court held that the physician's conduct toward four hospital employees evinced moral unfitness. The Court specifically stated that the Hearing Committee properly concluded that the acts evincing moral unfitness took place "in the practice of medicine" because they occurred at work during work hours. The court also concluded that the definition of misconduct used, "moral unfitness", was constitutionally applied to the facts of that case because it supplied "fair notice to a person of ordinary intellect of the nature of the proscribed conduct".

The important point these court decisions enunciate is that it is the Hearing Committee's responsibility to determine whether specific conduct occurred "in the practice of medicine" and whether the conduct was of a type that should be considered evidence of moral unfitness. The Hearing Committee in the instant case concludes that Respondent's

conduct occurred "in the practice of medicine", since it took place in his office, during work hours, and involved an employee. The Hearing Committee also concludes that this conduct provides evidence of predatory and offensive sexualized behavior toward an employee and, therefore, evidence of moral unfitness. Accordingly, it is concluded that Respondent committed misconduct as defined in the New York laws cited above.

Once misconduct under the New York statutes has been established, the only remaining issue is the nature and severity of the penalty to be imposed. As noted, Respondent did not personally attend the hearing, and presented no evidence. Accordingly, the Hearing Committee, finding no evidence in mitigation, such as recognition of the objectionable nature of his conduct and efforts to prevent recurrence, concludes that the appropriate penalty to be imposed is a censure and reprimand, a \$1,000 fine and a 1-year period of probation, to be imposed should Respondent return to New York to practice. Hopefully, this will impress upon Respondent that sexual harassment is highly objectionable, and that any recurrences of behavior of the sort that led to the Kentucky Order will be dealt with more harshly. The terms of probation are set forth in the attached Order.

## ORDER

### IT IS HEREBY ORDERED THAT:

1. A **CENSURE AND REPRIMAND** is hereby issued against the medical license of **VINAYAK PURUSHOTTAM BHAVALKAR, M.D.**
2. A fine in the amount of One Thousand Dollars (\$1,000.00) is assessed against the Respondent. Payment of the fine shall be due within 60 days of the effective date of this Order. The Respondent shall make payment to the Bureau of Accounts Management, New York State Department of Health, Erastus Corning Tower Building, Room 1258, Empire State Plaza, Albany, New York, 12237. Any fine not paid by the prescribed date shall be subject to all provisions of law relating to debt collection by the State of New York. This includes, but is not limited to, the imposition of interest; late payment charges and collection fees; referral to the New York Department of Taxation and Finance for collection; and non-renewal of permits or licenses (Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32).
3. Respondent is hereby placed on **PROBATION** for a period of **ONE (1) YEAR**, to commence upon Respondent's resumption of practice in New York State.
4. The terms of Respondent's probation are as follows:
  - A). Prior to resuming practice in New York, Respondent must provide thirty (30) days prior written notice concerning his intention to the New York State Office of Professional Medical Conduct ("OPMC"). This notice should be sent by registered or certified mail, return receipt requested, to the Board, addressed to the Director, Office of Professional Medical Conduct, Hedley Park Place, 433 River Street - Fourth Floor, Troy, New York 12180-2299. Said notice is to include a full description of any employment and practice since the date of this hearing, as well as a listing of professional and residential addresses and telephone numbers within or without New York State. The notification must also list any and all investigations, charges, convictions or disciplinary actions

by any local, state or federal agency, institution or facility since the date of this hearing, and must include verification that Respondent has successfully completed his probation in Kentucky.

- B). Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession. Most specifically, Respondent shall refrain from any behavior (physical, verbal, or of any other sort) toward his patients, employees, colleagues, or other office visitors that could be interpreted by them as sexual advances or that have the effect of providing Respondent with sexual arousal. Respondent shall also maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients.
- C). Respondent shall notify in writing any group, clinic or medical facility with whom he becomes affiliated or at which he practices during the effective period of this probation, of the contents of this order and terms of probation, and provide a copy of any such notification to OPMC.
- D). OPMC may, at its discretion, take any and all steps necessary to monitor Respondent's status, condition or professional performance. Respondent must cooperate in providing OPMC with access to any of his employees, patients, colleagues or other office visitors for the purpose of verifying his abstention from sexual harassment. Respondent must also provide, upon request, releases permitting unrestricted access to records and other information, to the extent permitted by law, from any employer, medical facility or institution with which he is affiliated or at which he practices; any treatment facility, treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of Respondent, or maintained by a rehabilitation program for impaired physicians. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of his compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
- E). Respondent may not retaliate against any employee or patient who reports sexual harassment by Respondent to any medical licensing or law enforcement authorities.
- F). Respondent shall submit written descriptive notification to OPMC at the address listed above, of any changes in employment and practice, professional and residential addresses or telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility during the probationary period, within 30 days of each event;
- G). Respondent shall notify the Director of OPMC, in writing, if he ceases to be engaged in or intends to leave the active practice of medicine in New York

State for a period of thirty (30) consecutive days or more. Respondent shall again notify the Director prior to any change in that status. Respondent's probation shall be tolled while Respondent is not practicing in New York during such period and shall resume upon his return to practice in New York State.

- H). Respondent shall comply with all terms, conditions, and restrictions to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance.
- I). If there is full compliance with every term and condition set forth herein, Respondent may practice as a physician in New York State; provided, however, that on receipt of evidence of non-compliance or any other violation of the term(s) and condition(s) of probation, a violation of probation proceeding and/or such other proceeding as may be warranted, may be initiated against Respondent pursuant to New York Public Health Law Sections 230 or any other applicable laws.
- J). OPMC may, in its discretion, and upon request by Respondent, relieve him of any uncompleted term of his probation, or any individual provision(s) thereof, if it is satisfied that such relief would not be contrary to the best interests of New York State residents.

The **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

**DATED: Massapequa, New York**

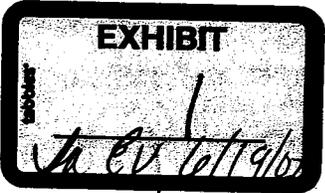
*June 27*, 2002



**PATRICK F. CARONE, M.D.**  
Chairperson

**ROBERT KLUGMAN, M.D.**  
**NANCY J. MACINTYRE, R.N., Ph.D.**

# **APPENDIX 1**



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

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**IN THE MATTER**  
  
**OF**  
  
**VINAYAK PURUSHOTTAM BHAVALKAR, M.D.**  
**CO-01-09-4557-A**

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**NOTICE OF  
REFERRAL  
PROCEEDING**

**TO:** VINAYAK PURUSHOTTAM BHAVALKAR, M.D.  
1 Courtney Place  
Bent Tree Apartments #409  
Big Spring, TX 79720

VINAYAK PURUSHOTTAM BHAVALKAR, M.D.  
V. A. Hospital  
Big Spring, TX 79720

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 20<sup>th</sup> day of February 2002, at 10:00 in the forenoon of that day at the Hedley Park Place, 5<sup>th</sup> Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York state. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5<sup>th</sup> Floor, 433 River Street, Troy, New York, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before February 11, 2002.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before February 11, 2002, and a copy of all papers must be served on the same date on the Department of Health attorney indicated 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.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION  
THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE  
MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR  
EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN  
ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

*December 5*, 2001



PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan  
Associate Counsel  
New York State Department of Health  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828

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

IN THE MATTER  
OF  
VINAYAK PURUSHOTTAM BHAVALKAR, M.D.  
CO-01-09-4557-A

STATEMENT  
OF  
CHARGES

VINAYAK PURUSHOTTAM BHAVALKAR, M.D., the Respondent, was authorized to practice medicine in New York state on December 18, 1975, by the issuance of license number 126058 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about <sup>July 11, 2001 B</sup> ~~May 11, 2000~~, the Commonwealth of Kentucky, State Board of Medical Licensure (hereinafter "Kentucky Board"), by an Agreed Order of Probation (hereinafter "Kentucky Order"), placed Respondent's license to practice medicine, on probation for a period of one (1) year with terms and conditions and required him to pay \$1,575.00 in administrative costs, based on sexually harassing an employee.

B. The conduct resulting in the Kentucky Board's disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(20) (moral unfitness).

SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

DATED: *December 5*, 2001  
Albany, New York

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