

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

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IN THE MATTER : COMMISSIONER'S
OF : ORDER AND
MATHEW K. ALUKAL, M.D. : NOTICE OF HEARING

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TO: MATHEW K. ALUKAL, M.D.
1301 North Forrest Road
Williamsville, New York

The undersigned, Antonia C. Novello, M.D., M.P.H.,
Dr. P.H., Commissioner of the New York State Department of
Health, after an investigation, upon the recommendation of a
committee on professional medical conduct of the State Board
for Professional Medical Conduct, and upon the Statement of
Charges attached hereto and made a part hereof, has determined
that the continued practice of medicine in the State of New
York by MATHEW K. ALUKAL, M.D., the Respondent, constitutes an
imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law Section
230(12), that effective immediately MATHEW K. ALUKAL, M.D.,
Respondent, shall not practice medicine in the State of New
York. This Order shall remain in effect unless modified or
vacated by the Commissioner of Health pursuant to N.Y. Public
Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant
to the provisions of N.Y. Public Health Law Section 230, and
N.Y. State Administrative Procedure Act Sections 301-307 and
401. The hearing will be conducted before a committee on
professional conduct of the State Board for Professional

Medical Conduct on the 16th day of July, 2001 at 10:00 AM at the Raddisson Airport Hotel, 4243 Genesee Street, Buffalo, New York 14225 and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

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. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180 (518-402-0751), 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. Claims of

court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

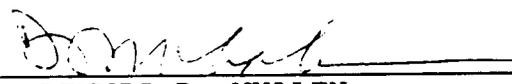
At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may 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 OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

July 3, 2001

ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P.H.
Commissioner


BY: DENNIS P. WHALEN,
Executive Deputy Commissioner

Inquiries should be directed to:

Kevin C. Roe
Associate Counsel
NYS Department of Health
Division of Legal Affairs
2509 Corning Tower
Albany, New York 12237-0032
(518) 474-8266

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

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IN THE MATTER : STATEMENT
OF : OF
MATHEW K. ALUKAL, M.D. : CHARGES

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MATHEW K. ALUKAL, M.D., the Respondent, was authorized to practice medicine in New York State on August 14, 1981, by the issuance of license 147353 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (Patients are identified in the appendix) in or about April 2001 at his office, 1301 North Forrest Road, Williamsville, New York. Respondent's care and treatment of Patient A, who was also an office employee, failed to meet acceptable standards of medical care and/or professional conduct, in that:

1. In or about April 2001, Respondent touched Patient A's breasts without medical justification.
2. In or about April 2001, Respondent touched Patient A's breasts in a manner that was not medically appropriate.
3. In or about April 2001, Respondent touched Patient A's buttocks with his groin area for no legitimate medical purpose.

B. Respondent treated Patient B from on or about February 25, 1998, to on or about May 31, 2000, at his office. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care and/or professional conduct, in that:

1. Respondent failed to perform an adequate and/or appropriate breast examination.
2. Between February 25, 1998 and before May 31, 2000, Respondent touched Patient B's breasts without medical justification on approximately four occasions.
3. Between February 25, 1998 and before May 31, 2000, Respondent touched Patient B's breasts in a manner that was not medically appropriate on approximately four occasions.
4. On or about May 31, 2000, Respondent touched Patient B's breasts without medical justification.
5. On or about May 31, 2000, Respondent touched Patient B's breasts in a manner that was not medically appropriate.
6. On or about May 31, 2000, Respondent touched Patient B's lower abdomen and pubic area without medical justification.
7. On or about May 31, 2000, Respondent touched Patient B's lower abdomen and pubic area in a manner that was not medically appropriate.
8. On or about May 31, 2000, Respondent touched Patient B's genitals without medical justification.

9. On or about May 31, 2000, Respondent touched Patient B's genitals in a manner that was not medically appropriate.
10. On or about May 31, 2000, Respondent touched Patient B's buttocks with his groin area for no legitimate medical purpose.

C. Respondent treated Patient C from on or about March 2, 2000, to on or about June 7, 2000. Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care and/or professional conduct, in that:

1. Respondent failed to perform an adequate and/or appropriate breast examination on or about April 7, 2000.
2. On or about April 7, 2000, Respondent touched Patient C's left breast without medical justification.
3. On or about April 7, 2000, Respondent touched Patient C's left breast in a manner that was not medically appropriate.

D. Respondent treated Patient D from on or about July 23, 1998, to in or about the Spring of 2000 at his office. Respondent's care and treatment of Patient D failed to meet acceptable standards of medical care and/or professional conduct, in that:

1. Respondent failed to perform an adequate and/or appropriate breast examination.
2. In or about the Spring of 2000, Respondent touched Patient D's breasts without medical justification on two occasions.
3. In or about the Spring of 2000, Respondent touched Patient D's breasts in a manner that was not medically appropriate on two occasions.
4. In or about the Spring of 2000, Respondent touched Patient D's lower abdomen and pubic area without medical justification.
5. In or about the Spring of 2000, Respondent touched Patient D's lower abdomen and pubic area in a manner that was not medically appropriate.
6. In or about the Spring of 2000, Respondent touched Patient D's buttocks with his groin area for no legitimate medical purpose.

E. Respondent treated Patient E from on or about May 22, 1998 to on or about September 2000 at his office.

Respondent's care and treatment failed to meet acceptable standards of medical care and/or professional conduct, in that:

1. Respondent failed to perform an adequate and/or appropriate breast examination.
2. In or about the Spring of 1999, Respondent touched Patient E's breasts without medical justification on two occasions.

3. In or about the Spring of 1999, Respondent touched Patient E's breasts in a manner that was not medically appropriate on two occasions.

F. From on or about February 2000 to on or about May 2001, Respondent sexually harassed Employee F by asking inappropriate sexual questions and initiating inappropriate sexual conversations; hugging; rubbing her shoulders; unhooking her bra; touching her buttocks with his hand(s); and/or touching her buttocks with his groin area.

G. On or about June 15, 2001, Respondent knowingly and intentionally caused Employee F to make a false statement regarding Respondent's behavior during her employment.

H. From on or about April 1999 to on or about February 2001, Respondent sexually harassed Employee G by asking inappropriate sexual questions; initiating inappropriate sexual conversations; attempting to touch; and/or hugging.

I. On or about June 30, 2000, Respondent falsely stated to Detective Gary Woods of the Amherst Police Department that he had never been accused of this type of incident (sexual abuse of patient) in the past when in fact Respondent knew that three patients had previously accused him of sexual misconduct.

SPECIFICATIONS

FIRST THROUGH FIFTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with gross negligence on a particular occasion in violation of New York Education Law §6530(4), in that Petitioner charges:

1. The facts in Paragraphs A and A.1, A.2, and/or A.3.
2. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9, and/or B.10.
3. The facts in Paragraphs C and C.1, C.2, and/or C.3.
4. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5, and/or D.6.
5. The facts in Paragraphs E and E.1, E.2, and/or E.3.

SIXTH THROUGH TENTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with gross incompetence on a particular occasion in violation of New York Education Law §6530(6), in that Petitioner charges:

6. The facts in Paragraphs A and A.1, A.2, and/or A.3.
7. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9, and/or B.10.
8. The facts in Paragraphs C and C.1, C.2, and/or C.3.
9. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5, and/or D.6.
10. The facts in Paragraphs E and E.1, E.2, and/or E.3.

ELEVENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of New York Education Law §6530(3), in that Petitioner charges two or more of the following:

11. The facts in Paragraphs A and A.1, A.2, A.3; B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9, B.10; C and C.1, C.2, C.3; D and D.1, D.2, D.3, D.4, D.5, D.6; and/or E and E.1, E.2, E.3.

TWELFTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of New York Education Law §6530(5), in that Petitioner charges two or more of the following:

12. The facts in Paragraphs A and A.1, A.2, A.3; B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9, B.10; C and C.1, C.2, C.3; D and D.1, D.2, D.3, D.4, D.5, D.6; and/or E and E.1, E.2, E.3.

THIRTEENTH THROUGH SEVENTEENTH SPECIFICATIONS

PHYSICAL ABUSE OR HARASSMENT OF PATIENTS

Respondent is charged with physically abusing or harassing patients in violation of New York Education Law §6530(31), in that Petitioner charges:

13. The facts in Paragraphs A and A.1, A.2 and/or A.3.
14. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9, and/or B.10.
15. The facts in Paragraphs C and C.1, C.2, and/or C.3.
16. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5 and/or D.6.
17. The facts in Paragraphs E and E.1, E.2, and/or E.3.

EIGHTEENTH THROUGH TWENTY-SIXTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with conduct in the practice of medicine which evidences moral unfitness to practice medicine in violation of New York Education Law §6530(20), in that Petitioner charges:

18. The facts in Paragraphs A and A.1, A.2 and/or A.3.
19. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9, and/or B.10.
20. The facts in Paragraphs C and C.1, C.2, and/or C.3.
21. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5 and/or D.6.
22. The facts in Paragraphs E and E.1, E.2, and/or E.3.
23. The facts in Paragraph F.
24. The facts in Paragraph G.
25. The facts in Paragraph H.
26. The facts in Paragraph I.

TWENTY-SEVENTH AND TWENTY-EIGHTH SPECIFICATIONS

FRAUD

Respondent is charged with practicing the profession fraudulently in violation of New York Education Law §6530 (2), in that Petitioner charges:

- 27. The facts in Paragraph G.
- 28. The facts in Paragraph I.

DATED: *July* 3, 2001
Albany, New York


BRIAN M. MURPHY
Chief Counsel
Bureau of Professional
Medical Conduct