



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

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

Dennis P. Whalen
Executive Deputy Commissioner

June 19, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert P. Borsody, P.C.
250 Park Avenue
New York, New York 10177 0077

Paul Stein, Esq.
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

William George Battaile, M.D.
P.O. Box 273
Paisley Road
Gibson Island, MD 21056

RE: In the Matter of William George Battaile, M.D.

Dear Mr. Borsody, Mr. Stein and Dr. Battaile:

Enclosed please find the Determination and Order (No. 97-154) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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 penalties **other than suspension or revocation** 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.

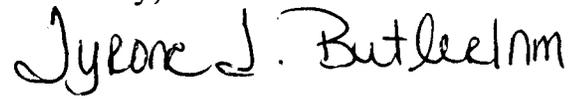
The notice of review served on the Administrative Review Board should be forwarded to:

Larry Storch, 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,

A handwritten signature in black ink that reads "Tyrone T. Butler nm". The signature is written in a cursive style with a large initial 'T' and a trailing 'nm'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

DETERMINATION

AND

ORDER

BPMC-97-154

IN THE MATTER

OF

WILLIAM GEORGE BATTLE, M.D.

A proceeding before a Hearing Committee (Committee) from the State Board for Professional Medical Conduct (BPMC) into charges concerning professional misconduct by a physician.

Before: MARGARET McALOON, M.D. (Chair), JOSEPH MESSINA, M.D. and JOHN VERNIEU.

A Notice of Hearing and Statement of Charges (Appendix I) alleges that a sister state's duly authorized disciplinary agency accepted a Public Letter from WILLIAM G. BATTLE, M.D., (Respondent) surrendering his license to practice in that State, for conduct which would constitute professional misconduct under New York Law. On May 1, 1997, this duly designated three member BPMC Committee conducted a hearing into those charges, pursuant to N.Y. Pub. Health Law § 230(10)(e)(McKinney's Supp. 1997). At that hearing, the Committee received exhibits into evidence from both the Respondent and the New York State Department of Health (Petitioner), the Respondent testified and a stenographic reporter recorded the proceeding. After considering the entire record from the hearing, the Committee renders this Determination that includes our Findings of Fact and Conclusions of Law. We vote unanimously to sustain the charge against the Respondent and to revoke his license to practice medicine in New York State.

Administrative Law Judge JAMES F. HORAN, served as the Committee's Administrative Officer and drafted this Determination.

The Petitioner appeared by HENRY M. GREENBERG, GENERAL COUNSEL, by PAUL STEIN, ESQ., of Counsel.

The Respondent appeared by ROBERT J. BORSODY, ESQ.

STATEMENT OF CASE

The Petitioner brought this case pursuant to N.Y. Pub. Health Law § 230(10)(p)(McKinney's Supp. 1997) and N.Y. Educ. Law § 6530(9)(McKinney's Supp. 1997). Those statutes provide for an expedited hearing when the case against a licensee arises solely from a prior criminal conviction in New York or another jurisdiction, or from a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. In such an expedited hearing, the statutes limit the Committee to determining the nature and severity for the penalty to impose against the licensee.

In the instant case, the Petitioner alleges that the Respondent committed professional misconduct under N.Y. Educ. Law § 6530(9)(d)(McKinney's Supp. 1997), because:

- the Respondent surrendered his license in another state (Maryland) after the duly authorized disciplinary agency from Maryland instituted a disciplinary action against the Respondent's Maryland license; and
- the conduct resulting in the Maryland Surrender would have constituted misconduct in New York.

The Maryland disciplinary action charged that the Respondent committed repeated and serious diagnostic errors or other diagnostic errors in treating sixty-three persons. The Petitioner charged that such Maryland conduct would have constituted misconduct under the following category in New York: practicing with incompetence on more than one occasion, a violation under N.Y. Educ. Law § 6530(5)(McKinney's Supp. 1997). At the hearing, the Petitioner's counsel urged the Committee to sustain all the charges against the Respondent and to revoke his New York Medical License.

The Respondent's attorney characterized the action as a clear cut case, with obvious facts, and he conceded that the Maryland Surrender amounted to a disciplinary act for which New York could impose a penalty against the Respondent's New York License. The Respondent's counsel argued, however, that the Respondent's problems in Maryland resulted from alcohol dependence, that the Respondent has undergone rehabilitation and that the Respondent is now completing Continuing Medical Education (CME) courses to regain his Maryland License. The Respondent asks that the Committee defer action in this case for three months so that the Respondent may reapply and secure his Maryland license, before the Committee imposes a penalty. In the alternative, the Respondent stated that he would consent to a limited license in New York forbidding him to practice pathology. The Respondent asked to retain his New York License because he must depend on the income he receives, as the legally required Medical Doctor on the Board of six New York Chiropractic Professional Corporations (PCs).

SIGNIFICANT LEGAL RULINGS

The Petitioner moved to amend the Statement of Charges [Petitioner's Exhibit 1] to correct a typographical error in the date the Respondent received his New York License, from February 2, 1996 to February 13, 1996. The Committee's Administrative Officer amended the Charges to correct the error, with no objection from the Respondent [Tr. 61-62].

During deliberations, the Administrative Officer advised the Committee, that to prove the Respondent committed misconduct in this case, under N.Y. Educ. Law § 6530(9)(d), the Petitioner must establish that the Respondent surrendered his Maryland License after the Maryland Board instituted a disciplinary action against the Respondent for committing conduct which would constitute incompetence on more than one occasion if the Respondent had committed such conduct in New York.

The Administrative Officer also discussed with the Committee two recent Appellate Division decisions concerning actions under N.Y. Educ. Law § 6530(9)(d)(McKinney's Supp. 1997): Matter of Sternberg v. Administrative Review Board for Professional Medical Conduct, __AD2d __, 652 NYS2d 855 (Third Dept. 1997) and Matter of Ricci v. Chassin, 220 AD2d 828, 632 NYS2d 303 (Third Dept. 1995). In Sternberg, a Respondent surrendered his Florida license to avoid administrative prosecution. The Appellate Division in that case ruled that in imposing a New York Penalty, the Committee properly considered the underlying charges from the Florida action. In Ricci, the Appellate Division ruled that a New York Committee could base misconduct findings and a revocation penalty, on a non-final adjudication, with no final penalty, from another state. The Administrative Officer also reminded the Committee that no statements from counsel constitute evidence, Matter of Balmir v. DeBuono, Index No. 74353 (Third Dept., March 6, 1997).

FINDINGS OF FACT

The Committee makes the following Findings of Fact after reviewing the entire record in this matter. The numbers in brackets refer to the exhibits that the Committee found persuasive in arriving at a particular finding. If any evidence in the record appears to conflict with these findings, the Committee considered and rejected that evidence in favor of the cited evidence.

1. The New York State Education Department authorized the Respondent to practice medicine in New York State on February 13, 1996 by issuing license number 202126 [Petitioner's Exhibit 2].
2. Prior to obtaining his New York License, the Respondent practiced pathology in Washington, D.C. and in Maryland [Respondent's Exhibit 3].

3. By a May 28, 1996 Summons and Notice of Charges and Hearing, the Maryland State Board of Physician Quality Assurance (Maryland Board) charged the Respondent with committing serious diagnostic errors in treating forty-six patients and with committing other diagnostic errors in seventeen more cases [Petitioner's Exhibit 3].
4. The Maryland charges arose from the Respondent's practice at John Hopkins Bayview (Bayview) Hospital from May, 1994 to September, 1994 [Petitioner's Exhibit 3].
5. The Maryland Board alleged that the Respondent's conduct amounted to professional incompetence, a violation, under the Maryland Medical Practice Act § 14-101 *et seq.* (1994) [Petitioner's Exhibit 3].
6. In order to settle that disciplinary action, the Maryland Board accepted the Respondent's offer to surrender his medical license on August 28, 1996 [Petitioner's Exhibit 4].
7. In stipulating to surrender his license, the Respondent conceded that the Maryland Board had sufficient evidence, based on their investigation for the Maryland Attorney general to prove, by clear and convincing evidence, that the Respondent did not practice medicine competently during five months at Bayview Hospital [Petitioner's Exhibit 4, page 2].
8. The Respondent's Surrender Letter indicated that Bayview's review of surgical pathology diagnoses, that the Respondent made, revealed frequent and sometimes major diagnostic errors [Petitioner's Exhibit 4, page 1].

CONCLUSIONS OF LAW

The Committee made the following conclusions pursuant to the above Findings of Fact. All conclusions resulted from a unanimous vote by the Hearing Committee.

The Hearing Committee concluded unanimously that the Petitioner sustained their burden to prove the charges. Preponderant evidence demonstrates that Respondent settled a disciplinary action against him, before the Maryland Board, by surrendering his Maryland medical license. The Committee concludes that the surrender constitutes a disciplinary action by the Maryland Board. The Committee concludes further that the action, resulting in the Maryland surrender, arose from conduct that would constitute misconduct in New York, under N.Y. Educ. Law § 6530(5)(McKinney's Supp. 1997), practicing medicine with incompetence on more than one occasion.

DETERMINATION AS TO PENALTY

Pursuant to the Findings of Fact and Conclusions of Law that we set forth above, the Committee votes unanimously to revoke the Respondent's license to practice medicine in New York State. We reach this Determination after considering all the penalties available pursuant to statute, including revocation, suspension and/or probation, license limitation, censure and reprimand, and monetary penalties. We conclude that the repeated incompetent acts, that resulted in the Respondent's license surrender in Maryland, demonstrate that we can protect the public in this State only by revoking the Respondent's license to practice medicine. We reach this Determination upon concluding that a) the Respondent committed extensive and serious incompetent acts in Maryland, b) the Respondent lacked any credibility when testifying in mitigation, c) delaying a determination in this case would serve no useful purpose, and d) limiting the Respondent's license would provide insufficient protection for patients in New York.

a) The Maryland Conduct: The Committee concludes that the charges, from the Maryland action that led to the Respondent's Surrender, demonstrate that the Respondent poses a serious risk to the public. The Respondent's Surrender Letter admitted that Maryland could have proved that he failed to practice pathology competently in the months he worked at Bayview, admitted that Bayview's review revealed frequent and sometimes major diagnostic errors and admitted that the Maryland charges included the Bayview investigation findings [Petitioner's Exhibit 4, pages 1-2]. The Respondent denied any incompetence at the hearing [Tr. 48] and attempted to minimize his Maryland errors [Tr. 25-26], but the Committee refuses to accept the Respondent's attempt to repudiate his own Surrender Letter.

The Committee also rejects the Respondent's attempts to blame his misconduct on alcohol dependence. Although the Respondent's counsel attempted to offer alcohol dependence as the source for the Respondent's errors, the Respondent himself gave no testimony showing how alcohol dependence caused his Maryland errors. The Respondent denied being an alcoholic, as he defines the term, and stated only that his drinking habits "were all after work when I came home in the evening" [Tr. 57]. Nothing in the Maryland Surrender Letter addressed alcohol dependence and the Respondent provided no documentation that would show that the Maryland Board directed the Respondent to alcohol rehabilitation. The Surrender Letter does provide that, if the Respondent reapplies for Maryland Licensure, he must prove cognitive and clinical competence to practice medicine, demonstrate that he has taken at least fifty hours CME applicable to the medical field he wishes to enter, and perhaps undergo an evaluation for clinical competence. The Committee concludes that these conditions reflect the Maryland Board's concerns over the Respondent's competence rather than over alcohol dependence.

The Committee finds nothing in the record to convince us that the Respondent possesses the motivation or insight to correct the deficiencies in his skill or knowledge, that led to his repeated and serious incompetent acts in Maryland. The Respondent expressed no remorse for his Maryland misconduct, denied the conduct amounted to incompetence [Tr. 48-49] and tried to downplay his misconduct's serious nature [Tr. 25-26]. The Respondent indicated that he was taking CME courses,

to regain his license [Tr. 41-42]. The Respondent gave no indication, however, that he took the courses to regain competence in medicine. He did indicate a desire to regain a Maryland practice or retain his New York License due to a need for income [Tr. 28-29, 50, 73]. The Committee concludes that, no matter how many hours in CME courses the Respondent attends, the courses will provide no benefit until the Respondent recognizes his deficiencies, admits his incompetence and accepts the need for retraining to regain his skills, rather than to regain an income source.

b) Respondent's Evidence in Mitigation: The Committee finds no value in any mitigating evidence that the Respondent introduced. The five letters that the Respondent introduced, as Exhibit A, came from physicians who all worked with the Respondent at Sibley Hospital in Washington, D.C., prior to the Respondent's move to Maryland. The physicians writing the letters provided no information concerning the Respondent's 1994 misconduct in Maryland or about his efforts or inclination to correct the deficiencies that he displayed in his 1994 practice at Bayview. The remaining mitigation evidence came through the Respondent's testimony. The Committee found the Respondent's testimony to lack any credibility.

The Respondent's Application for New York Licensure contains a factual misrepresentation, that standing alone, would provide the Committee sufficient reason to find that the Respondent lacks credibility. On Question 15 in the Application, the Respondent answered "No" to the question asking, in part, whether the Respondent ever resigned voluntary or involuntary from a hospital to avoid employment termination or restrictions [Petitioner's Exhibit 2, page 3]. The Respondent admitted at the hearing that he had resigned from employment at Bayview, under duress following a problem there [Tr. 65-68], although he indicated that the incorrect answer on Question 15 denying such a resignation resulted from reading the question hastily [Tr. 68]. On the very next page after that answer, however, when listing activities, he listed his status, from 1992 until the December 1995 Application as "Retired; Consultant in Pathology". The Application omits any information about the five month 1994 employment at Bayview [Petitioner's Exhibit 2, page 4]. The Committee concludes that the "No" answer to question 15 and the Bayview omission demonstrate the

Respondent withheld information deliberately from New York concerning his employment and misconduct at Bayview. Such deliberate deception shows the Respondent lacks credibility as a witness.

In addition to the application answer and omission, the Committee has noted already that the Respondent gave testimony that contradicted and attempted to repudiate his Maryland Surrender Letter and that he gave a qualified and unconvincing answer about his status as an alcoholic. On his 1996 Maryland Surrender Letter, the Respondent denied having applied for licensure in any other state [Petitioner's Exhibit 4, page 3], when he had actually filed a New York application in December, 1995 [Petitioner's Exhibit 2]. The Respondent attempted to explain that omission by stating that by the time he surrendered his Maryland License, New York had issued his New York License and so he no longer had an application in [Tr. 59]. The Respondent also demonstrated a poor memory about important details. For example, he claimed initially that he had been involved with the New York Chiropractic P.C.s since resigning from Bayview in 1994 [Tr. 54], but then admitted that he only became involved with the P.C.s after receiving his New York License in 1996 [Tr. 57]. The contradictions, omissions and poor recall demonstrated further that the Respondent lacked credibility as a witness.

c) Request to Delay Determination: The Committee sees no reason to delay our Determination in this matter for three months, as the Respondent requested. Whether the Respondent regains his Maryland License has no bearing on the action that this Committee concludes we must take against the Respondent's license in New York.

d) License Limitation: The Committee concludes that limiting the Respondent's license to prohibit practice in pathology will provide an inadequate penalty in this case. The Respondent practiced as a specialist in pathology since 1959. In 1994, he demonstrated serious and repeated incompetence while working at Bayview Hospital as a pathologist. Although the Respondent denied incompetence and attempted to downplay his errors, the Bayview investigation and the Maryland charges characterized the Respondent's conduct as serious diagnostic errors in forty-six patient

cases. The Respondent's testimony made clear that he will provide medical advice to the New York Chiropractic P.C.s [Tr. 33]. The Committee concludes that the Respondent's failure to perform competent diagnosis in the specialty he practiced since 1959 demonstrates his incompetence to practice medicine. The Committee lacks confidence in the Respondent's ability to practice or consult in any medical area. As we noted earlier, the Respondent demonstrates no insight into the need to correct his deficiencies or any motivation to improve his skills and knowledge. The Respondent demonstrated only a motivation to retain his New York License as an income source. The Committee votes 3-0 to revoke the Respondent's license to practice medicine in New York State.

ORDER

Based upon the foregoing, **THE COMMITTEE ISSUES THE FOLLOWING ORDER:**

1. The Committee **SUSTAINS** the charge that the Respondent surrendered his Maryland medical license after Maryland instituted an action against him for conduct that would constitute misconduct under New York Law.
2. The Committee **REVOKES** the Respondent's License to practice medicine in New York State.
3. This penalty shall become effective thirty days from receipt.

DATED: New York, New York .
June 16, 1997


MARGARET McALOON, M.D. (Chairperson)

JOSEPH MESSINA, M.D.
JOHN VERNIEU

APPENDIX I

IN THE MATTER
OF
WILLIAM GEORGE BATTAILE, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: WILLIAM GEORGE BATTAILE, M.D.
P.O. Box 273
Paisley Road
Gibson Island, MD 21056

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1997) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1997). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on March 26, 1997, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. 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 which 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, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (Telephone: 518-402-0748) (henceforth "Bureau of Adjudication"), as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such 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 written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney

indicated below. Pursuant to §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.

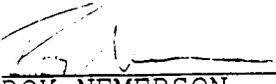
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days 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: New York, New York
February 27, 1997



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Paul Stein
Associate Counsel
NYS Department of Health
Division of Legal Affairs
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2617

**IN THE MATTER
OF
WILLIAM GEORGE BATTAILE, M.D.**

STATEMENT
OF
CHARGES

WILLIAM GEORGE BATTAILE, M.D., the Respondent, was
authorized to practice medicine in New York State on February 13, 1996 by the issuance of license number 202126 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. 1. On or about August 28, 1996, the Board of Physician Quality Assurance of the State of Maryland (hereinafter referred to as "the Board"), accepted the Public Letter of Surrender ("Letter of Surrender") of the medical license of Respondent. The Letter of Surrender stated, inter alia:

The investigation resulted in BPQA Case Number 95-0470, which charged me with violation of the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. sec. 14-101 et seq. The pertinent provision of the Act, sec. 14-404(a)(4), provides:

(a) Subject to the hearing provisions of sec. 14-405 of this subtitle, the Board on the affirmative vote of the majority of its full authorized membership, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(4) Is professionally . . . incompetent.

. . . .
I acknowledge that the Board has sufficient evidence, based upon its investigation, for the Office of the Attorney General to prove by

clear and convincing evidence, that I did not practice pathology competently in the five months that I worked at Bayview [Medical Center]. Public Letter of Surrender p. 2.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN BY A DULY AUTHORIZED
PROFESSIONAL DISCIPLINARY AGENCY OF ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law sec. 6530(9)(d) (McKinney Supp. 1997), in that he voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license would, if committed in New York state, constitute professional misconduct under the laws of New York state, namely:

- a. Practicing the profession with incompetence on more than one occasion (N.Y. Educ. Law sec. 6530 (5) (McKinney Supp. 1997)) and/or

as Petitioner specifically alleges:

1. The facts in Paragraph A1.

Dated: New York, New York
February 27, 1997



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct