

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

-----X

IN THE MATTER :
OF : COMMISSIONER'S
NORMAN AMER, M.D. : ORDER

-----X

A Violations Committee proceeding in the above-entitled proceeding was held on March 9, 1990 and May 7, 1990. Respondent, Norman Amer, M.D., appeared by Jonathan Weinstein, Esq. The evidence in support of the charges against the Respondent was presented by Daniel Guenzburger, Esq.

NOW, on reading and filing the transcript of the hearing, the exhibits and other evidence, and the findings, conclusions and recommendation of the Committee,

I hereby make the following findings:

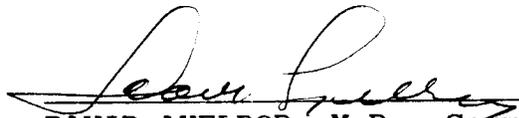
- A. The Findings of Fact of the Hearing Committee are accepted.
- B. The Conclusions of the Committee with respect to the Second and Fifth Specifications concerning the extent of the pneumothorax are sustained.
- C. The Conclusions of the Committee with respect to the First, Third and Fourth Specifications are rejected and the charges are sustained. Contrary to the Hearing Committee's conclusion, Respondent's fraudulent intent to deceive is supported by clear circumstantial evidence particularly the fact that he made two false representations to the same effect more than two months apart and only corrected his error when confronted with the results of the hospital's investigation. Contrary to the Hearing Committee's conclusion, no proof of actual harm to others is necessary to establish fraudulent

practice. Similarly, the Fourth Specification should be sustained. The Hearing Committee concluded that there was no evidence that the false report was intentionally filed. To the contrary, it is clear that Respondent knew he was writing a false report on June 5. This is supported by his later actions before the hospital quality assurance committee. The false report was not the product of inadvertence or carelessness.

Respondent is hereby censured and reprimanded and he is ordered to perform 25 hours of community service at a health clinic, licensed pursuant to Article 28 of the Public Health Law, serving predominantly medicaid recipients.

DATED: Albany, New York

September 11, 1990



DAVID AXELROD, M.D., Commissioner
New York State Department of Health