



**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
October 25, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Robert Maher, Esq.
NYS Department of Health
Hedley Park Place
433 River Street - 4th Floor
Troy, New York 12180

Gary Gesualdi, M.D.
1920 Gunbarrel Road
Chattanooga, Tennessee 37421

Gary Gesualdi, M.D.
Physician Care, Inc.
2021 Hamilton Place Blvd.
Chattanooga, Tennessee 37421

Wilfred T. Friedman, P.C.
36 West 44th Street
New York, New York 10036

RE: In the Matter of Gary Gesualdi, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-192) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

In the Matter of

Gary Gesualdi, M.D. (Respondent)

**A proceeding to review a Determination by a
Committee (Committee) from the Board for
Professional Medical Conduct (BPMC)**

COPY

Administrative Review Board (ARB)

Determination and Order No. 00-192

**Before ARB Members Grossman, Lynch, Pellman, Price and Briber
Administrative Law Judge James F. Horan drafted the Determination**

**For the Department of Health (Petitioner):
For the Respondent:**

**Paul Robert Maher, Esq.
Wilfred T. Friedman, Esq.**

After a hearing below, a BPMC Committee determined that the Respondent engaged in conduct in Tennessee, while practicing medicine in that state, that would constitute professional misconduct under New York Law. The Committee voted to place conditions on the Respondent's New York License, in event the Respondent ever returns to practice in New York. In this proceeding pursuant to N.Y. Pub. Health Law § 230-c (4)(a)(McKinney's Supp. 2000), the Petitioner asks the ARB to nullify or modify that Determination by either revoking the Respondent's New York License or imposing additional conditions on that License. After considering the review submissions from both parties, we affirm the Committee's Determination to impose conditions on the Respondent's License, but we modify the wording in the Committee's Order.

Committee Determination on the Charges

The Petitioner commenced the proceeding by filing charges with BPMC alleging that the Respondent violated N. Y. Educ. Law §§6530(9)(b)&(9)(d) (McKinney Supp. 2000) by committing professional misconduct because:

- the duly authorized professional disciplinary agency from a sister state (Tennessee) found the Respondent guilty for improper professional practice [§6530(9)(b)], and/or took action against the Respondent's License in that state [§6530(9)(d)], for,
- conduct that would constitute professional misconduct, if the Respondent had committed such conduct in New York.

The New York action followed an Order by the Tennessee Board of Medical Examiners (Tennessee Board) that continued a conditional license for the Respondent in Tennessee, due to the Respondent's insubordinate attitude and behavior and his misrepresentations about his health problems. The Petitioner's Statement of Charges [Petitioner Exhibit 1] alleged that the Respondent's misconduct in Tennessee would constitute misconduct if committed in New York, under the following categories:

- fraud in medical practice, a violation under N. Y. Educ. Law § 6530(2) (McKinney Supp. 2000),
- willful or grossly negligent failure to comply with substantial provisions of federal, state or local laws, rules or regulations that pertain to medical practice, a violation under N. Y. Educ. Law § 6530(16) (McKinney Supp. 2000),
- willfully making or filing a false report, a violation under N.Y. Educ. Law § 6530(21)(McKinney Supp. 2000), and,
- violating probation terms or conditions or limitations on a license, a violation under N. Y. Educ. Law § 6530(29) (McKinney Supp. 2000).

An expedited hearing (Direct Referral Proceeding) ensued pursuant to N.Y. Pub. Health Law §230(10)(p)(McKinney Supp. 2000), before a BPMC Committee, who rendered the Determination which the ARB now reviews. In such a Direct Referral Proceeding, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, see In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996).

The evidence at the hearing established that the Tennessee Board granted the Respondent a Conditional License in 1996, which required the Respondent to maintain advocacy

with the Tennessee Medical Foundation (TMF) and to continue with a residency program. The Respondent practiced subsequently in the residency program at the East Tennessee State University's James H. Quillen College of Medicine at Chattanooga (Residency Program). In 1997, the Residency Program placed the Respondent on Probation for three months for:

- making argumentative interactions,
- avoiding precepting,
- making superficial patient assessments, and,
- making pre-judgments about patients that affected his ability to deal with patients effectively.

In March 19, 1998, the Residency Program suspended the Respondent for insubordinate attitude and behavior. On March 23, 1998, the Residency Program terminated the Respondent. In an April 5, 1999 Order by the Tennessee Board, the Board also found that the Respondent misrepresented the state of his health on at least one document that could potentially affect his medical practice. The Tennessee Board found that the Respondent violated a lawful Board Order and engaged in unprofessional conduct. The Board Order allowed the Respondent to retain his conditional license in Tennessee, on condition that the Respondent:

- maintain continued advocacy with TMF,
- maintain a continual treatment relationship with his psychiatrist,
- practice medicine only in a group practice,
- submit quarterly reports from a monitoring physician,
- notify the Tennessee Board concerning any employment changes, and,
- treat women and children only if a chaperone is present at all times.

The Order provided that the Respondent could appear before the Tennessee Board after one year to report and to request lifting of those conditions. By Order on May 17, 2000, the Tennessee Board found that the Respondent had complied with the terms under the April, 1999 Order and that the Respondent addressed his manic depressive disorder. The Tennessee Board concluded that the Respondent's continued advocacy with TMF and his compliance with the April 1999 Order provided adequate protections for Tennessee's citizens.

The Committee determined that the Respondent engaged in conduct in Tennessee that would constitute misconduct in New York and that such conduct made the Respondent subject to disciplinary action against his New York License pursuant to N. Y. Educ. Law §§6530(9)(b)&(9)(d) (McKinney Supp. 2000). The Committee found action against the Respondent's New York License unwarranted. The Committee provided, however, that if the Respondent chose to return to practice in New York, the Respondent must 1.) provide ninety days advance notice to the Office for Professional Medical Conduct (OPMC) concerning the return, 2.) provide proof his license remains in good standing in every state in which he maintains a license, and, 3.) continue in substance abuse and psychiatric treatment programs as approved by OPMC.

Review History and Issues

The Committee rendered their Determination on July 3, 2000. This proceeding commenced on July 10, 2000, when the ARB received the Petitioner's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Petitioner's brief and the Respondent's response brief. The record closed when the ARB received the response brief on August 18, 2000.

The Petitioner's brief states: "The Board for Professional Medical Conduct requests that the Respondent's license in this matter be revoked". The Petitioner asks further, that if the ARB decides against revocation, that the ARB suspend the Respondent and impose several conditions on his New York License.

In response, the Respondent asks that the ARB consider his bi-polar disorder, which contributed to his problems in Tennessee. The Tennessee Board found that the Respondent addressed that problem and the Tennessee Board granted the Respondent a full and unrestricted license. The Respondent argues that the conditions the Committee imposed reflect the findings

by the Tennessee Board and the Respondent asks the ARB to affirm the Committee's Determination.

Determination

The ARB has considered the record and the parties' briefs. We affirm the Committee's Determination that the Respondent's conduct in Tennessee would have constituted misconduct in New York and that such conduct made the Respondent liable for discipline against his New York License pursuant to N. Y. Educ. Law §§6530(9)(b)&(9)(d) (McKinney Supp. 2000). Neither party challenged the Committee's Determination on the charges. We also affirm the Committee's Determination to place conditions on the Respondent's New York License concerning any return by the Respondent to practice in New York. We do, however, modify some language that appears in the Committee's Determination and Order.

Prior to discussing the reasons for our Determination, we wish to address an error in the Petitioner's brief. That brief states incorrectly that: "The Board for Professional Medical Conduct requests that the Respondent's license in this matter be revoked". The Board for Professional Medical Conduct, through a Committee from the Board, made the Determination that the Petitioner now challenges. The Petitioner represents the Office for Professional Medical Conduct, rather than the Board. In this case, the Office asks the ARB to overturn an action by the Board.

We agree with the Committee that the Respondent's problems in Tennessee resulted from his mental condition and the Tennessee Orders demonstrate that the Respondent has addressed that condition. We hold that the Committee acted appropriately in imposing conditions on the Respondent's possible return to practice in New York that require the Respondent to provide

notice concerning the return, to provide information about his license status in other states and to continue in treatment. We agree with the Committee that the conditions will provide protection for the Respondent's future patients.

The ARB votes to modify the language in the Committee's Order. Paragraph 1 in the Committee's Order states: "1. No action is taken against the Respondent's license to practice medicine in New York State". The Committee did in fact take action against the Respondent's New York License by imposing the conditions on the Respondent's possible return. We consider these conditions to amount to probation terms, with the probation to commence upon the Respondent's return to New York. The Committee may impose probation as an action against a license pursuant to N.Y. Pub. Health Law § 230-a(9)(McKinney Supp. 2000). The ARB has noted already that we consider the conditions the Committee imposed appropriate on the facts in the case. We affirm the Committee's Determination to impose the conditions, but we amend the Committee's Order to delete the current paragraph 1 and to renumber the remaining paragraphs accordingly.

We reject the Respondent's request that we increase the penalty to revocation or actual suspension. The Petitioner failed to explain the necessity for either such severe penalty. The Respondent's conduct in Tennessee resulted from a condition that the Respondent has addressed and continues to address. We find it totally inappropriate to impose a punitive sanction against a physician because the physician suffers from a condition which the physician has addressed successfully and which poses no dangers to the physician's patients as long as the physician continues to address that condition. We also reject the additional conditions that the Petitioner requested that we impose. The Petitioner requested that we order the Respondent to pay all registration fees. We fail to see how fee payment by the Respondent provides any greater

protection for the Respondent's future patients. The Petitioner also asked that we impose a condition that any failure by the Respondent to comply with imposed conditions shall constitute misconduct under N. Y. Educ. Law § 6530(29)(McKinney Supp. 2000). The procedure for adjudicating probation violations lies under N.Y. Pub. Health Law § 230(19). That statute provides an accused physician the right to a hearing on probation violation charges. We refuse to issue an order dispensing with the right for that hearing. We also decline the Petitioner's request that we order that, if the Respondent ever faces disciplinary charges in the future, the Respondent's disciplinary history will be admissible in the hearing on those charges. The decision on admitting evidence at BPMC hearings lies with a Hearing Committee's Administrative Officer, at the time of the hearing, pursuant to N.Y. Pub. Health Law § 230(10)(e)(McKinney Supp. 2000).

ORDER

NOW, with this Determination as our basis, the ARB renders the following **ORDER**:

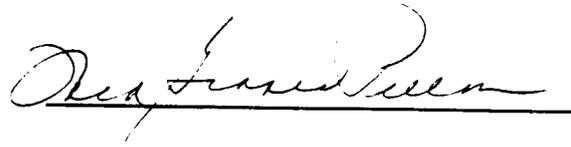
1. The ARB **AFFIRMS** the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB **AFFIRMS** the Committee's Determination to place conditions on the Respondent's License to practice medicine in New York.

Robert M. Briber
Thea Graves Pellman
Winston S. Price, M.D.
Stanley L. Grossman, M.D.
Therese G. Lynch, M.D.

In the Matter of Gary Gesualdi, M.D.

Thea Graves Pellman, an ARB Member concurs in the Determination and Order in the Matter of Dr. Gesualdi.

Dated: Oct 13, 2000

A handwritten signature in cursive script, reading "Thea Graves Pellman", written over a horizontal line.

Thea Graves Pellman

In the Matter of Gary Gesualdi, M.D.

Winston S. Price, M.D., an ARB Member concurs in the Determination and Order in the Matter of Dr. Gesualdi.

Dated: Oct 13, 2000

A handwritten signature in cursive script, appearing to read "W. S. Price", is written above a solid horizontal line.

Winston S. Price, M.D.

In the Matter of Gary Gesualdi, M.D.

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in
the Matter of Dr. Gesualdi.

Dated: Sept 16, 2000

Therese G Lynch M.D.

Therese G. Lynch, M.D.

In the Matter of Gary Gesualdi, M.D.

Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the Matter of Dr. Gesualdi.

Dated: September 15, 2000

Stanley L. Grossman M.D.

Stanley L Grossman, M.D.

In the Matter of Gary Gesualdi, M.D.

Robert M. Briber, an ARB Member, concurs in the Determination and Order in the Matter of Dr. Gesualdi.

Dated: September 18, 2000



Robert M. Briber



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.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

July 3, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
NYS Department of Health
Hedley Park Place
433 River Street - 4th Floor
Troy, New York 12180

Gary Gesauldi, M.D.
1920 Gunbarrel Road
Chattanooga, Tennessee 37421

Gary Gesauldi, M.D.
Physician Care, Inc.
2021 Hamilton Place Blvd.
Chattanooga, Tennessee 37421

Wilfred T. Friedman, P.C.
36 West 44th Street
New York, New York 10036

RE: In the Matter of Gary Gesauldi, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-192) 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:cah
Enclosure

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

COPY

**IN THE MATTER
OF
GARY GESUALDI, M.D.**

DETERMINATION

AND

ORDER

BPMC #00-192

A Notice of Referral and Statement of Charges, both dated, February 28, 2000, were served upon the Respondent **GARY GESUALDI, M.D.**

DAVID HARRIS, M.D., Chairperson, **J. LaRUE WILEY, M.D.** and **MR. MICHAEL WALKER**, 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on June 15, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent appeared in person and was represented by **WILFRED T. FRIEDMAN, P.C.**, 36 West 44th Street, New York, New York 10036, by **SHARIF MANDAVIAN, ESQ.**, of Counsel.

Evidence was received and transcripts of these proceeding were made.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:

None

For the Respondent:

Gary Gesualdi, M.D., the Respondent
Gary Olbrich, M.D., by telephone

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous unless otherwise stated.

1. **GARY GESUALDI, M.D.**, the Respondent, was authorized to practice medicine in New York state on December 3, 1986, by the issuance of license number 168794 by the New York Education Department. (Pet's. Ex. 3)

2. On March 16, 1999, the State of Tennessee, Department of Health, Board of Medical Examiner (hereinafter "Tennessee Board"), by an Order (hereinafter "Tennessee Order"), continued the Respondent's conditional license to practice medicine with modified conditions which required him to maintain the continued advocacy of the Tennessee Medical Foundation, maintain a continued relationship with his psychiatrist, practice only in a group medical practice, submit quarterly reports from a monitoring physician, and have a chaperone present at all times when treating women and children, based on his having been placed on probation in 1997 and suspended in 1998 from a Residency Program for insubordinate attitude and behavior, and that he misrepresented the state of his previous health problems on at least one document that could potentially affect his medical practice. (Pet's. Ex. 4)

3. By Order, dated May 17, 2000, the "Tennessee Board" found, among other things:

- "that Dr. Gesualdi has complied with the terms of this Board's Order dated April 5, 1999 and the Board further finds from the testimony presented today from Dr. Gary Olbrich and Dr. Gary Gesualdi, that Dr. Gesualdi suffers from a manic depressive disorder which he has addressed which, the Board today finds contributed to his prior problems.
- That Dr. Gesualdi continues to have the advocacy of the Tennessee Medical Foundation."

The "Tennessee Board" concluded:

- "The Board's finds from the proof presented today that Gary Gesualdi, M.D. has complied with the conditions previously ordered by the Board and has timely applied for an Order Modification."

The Tennessee Board Order further provides:

- "The Board finds, after weighing all of the evidence presented and options available to the Board, that Dr. Gesualdi has taken steps to address his manic depressive disorder and his continued advocacy with the Tennessee Medical Foundation and compliance with the Order of this Board adequately provides for the protection of the citizens of the State of Tennessee."

- That Gary Gesualdi, M.D. is hereby granted an unrestricted license to practice medicine in the State of Tennessee. (Resp's. Ex. 4)

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes, that the conduct resulting in the Tennessee Board's March 16, 1999 disciplinary action against the Respondent would constitute misconduct under laws of New York state.

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of having 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 State Education Law §6530(9)(d) by having had disciplinary action taken against him 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 of New York state.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that the Respondent suffers from a manic depressive disorder which contributed to his prior problems and his substance abuse.

A March 16, 1999, Order of the "Tennessee Board" continued the Respondent's conditional license to practice medicine in that state subject to certain terms and conditions.

A March 17, 2000, Order of the "Tennessee Board" found that the Respondent had complied with the terms of it's prior Order and granted the Respondent an unrestricted license to practice medicine in the State of Tennessee.

Given the circumstances of this case, the Hearing Committee believe that any action against the Respondent's license to practice medicine in the state of New York is not warranted and would serve no useful purpose.

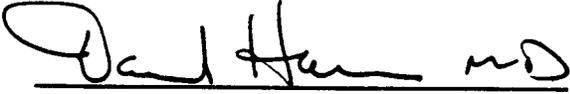
However, if at some future date the Respondent chooses to return to practice in New York, he must comply with conditions as hereinafter specified in the Order.

ORDER

IT IS HEREBY ORDERED:

1. No action is taken against the Respondent's license to practice medicine in New York state.
2. If, at some future date, the Respondent chooses to return to practice in New York he must:
 - provide ninety days prior notice concerning his return to the Office of Professional Medical Conduct,
 - include with the notice proof that his license remains in good standing in all states where he maintains a license, and
 - continue in substances abuse treatment programs and psychiatric treatment programs as approved by the Office of Professional Medical Conduct.
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: *June 23*, 2000
New York


DAVID HARRIS, M.D.

J. LaRUE WILEY, M.D.

MR. MICHAEL WALKER

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

-----X
IN THE MATTER
OF
GARY GESUALDI, M.D.

STATEMENT
OF
CHARGES

-----X
GARY GESUALDI, M.D., the Respondent, was authorized to practice medicine in New York state on December 3, 1986, by the issuance of license number 168794 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 16, 1999, the State of Tennessee, Department of Health, Board of Medical Examiners (hereinafter "Tennessee Board"), by an Order (hereinafter "Tennessee Order"), continued the Respondent's conditional license to practice medicine with modified conditions which required him to maintain the continued advocacy of the Tennessee Medical Foundation, maintain a continued relationship with his psychiatrist, practice only in a group medical practice, submit quarterly reports from a monitoring physician, and have a chaperone present at all times when treating women and children, based on his having been placed on probation in 1997 and suspension in 1998 from a Residency Program for insubordinate attitude and behavior, and that he misrepresented the state of his previous health problems on at least one document that could potentially affect his medical practice.

B. The conduct resulting in the Tennessee 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(2) (practicing the profession fraudulently);
2. New York Education Law §6530(16) (failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine);
3. New York Education Law §6530(21) (filing a false report, or failing to file a report required by law of by the Department of Health or the Education Department); and/or
4. New York Education Law §6530(29) (violating any terms of probation or condition or limitation imposed on the licensee).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of having 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, in that the Petitioner charges

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

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having had disciplinary action taken against him 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 of New York state, in that Petitioner charges:

2. The facts in paragraphs A and/or B.

DATED: *Feb 28*, 2000
Albany, New York


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