

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

IN THE MATTER  
OF  
PETAR MUNCAN, M.D.

COMMISSIONER'S  
ORDER AND  
NOTICE OF  
HEARING

TO: PETAR MUNCAN, M.D.  
160-40 81<sup>st</sup> Street  
Howard Beach, N.Y. 11414

The undersigned, Antonia C. Novello, M.D., M.P.H., Commissioner 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 PETAR MUNCAN, 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. Pub. Health Law §230(12) (McKinney Supp. 2001), that effective immediately PETAR MUNCAN, 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. Pub. Health Law §230(12) (McKinney Supp. 2001).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 2001), and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 2001). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on February 28, 2001, at 10:00 a.m., at the offices of the New York State Health Department, 5 Penn Plaza, Sixth Floor, New

York, NY 10001, 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 §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.

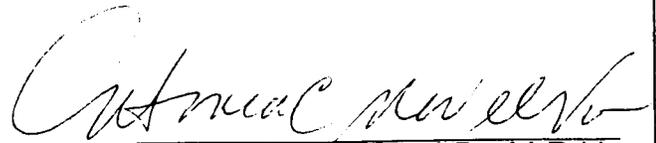
The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of 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, and by telephone (518-402-0748), 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 §230-a (McKinney Supp. 2001). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York  
February 26, 2001

  
ANTONIA C. NOVELLO, M.D., M.P.H.  
Commissioner  
New York State Health Department

Inquiries should be directed to:

Dianne Abeloff  
Associate Counsel  
N.Y.S. Department of Health  
Division of Legal Affairs  
5 Penn Plaza  
Suite 601  
New York, New York 10001  
(212) - 613-2606

## SECURITY NOTICE TO THE LICENSEE

The proceeding will be held in a secure building with restricted access. Only individuals whose names are on a list of authorized visitors for the day will be admitted to the building

No individual's name will be placed on the list of authorized visitors unless written notice of that individual's name is provided by the licensee or the licensee's attorney to one of the Department offices listed below.

The written notice may be sent via facsimile transmission, or any form of mail, but must be received by the Department **no less than two days prior to the date** of the proceeding. The notice must be on the letterhead of the licensee or the licensee's attorney, must be signed by the licensee or the licensee's attorney, and must include the following information:

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Licensee's Name \_\_\_\_\_ Date of Proceeding \_\_\_\_\_

Name of person to be admitted \_\_\_\_\_

Status of person to be admitted \_\_\_\_\_  
(Licensee, Attorney, Member of Law Firm, Witness, etc.)

\_\_\_\_\_  
Signature (of licensee or licensee's attorney)

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This written notice must be sent to either:

New York State Health Department  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor South  
Troy, NY 12180  
Fax: 518-402-0751

New York State Health Department  
Bureau of Professional Medical Conduct  
5 Penn Plaza  
New York, NY 10001  
Fax: 212-613-2611

IN THE MATTER  
OF  
PETAR MUNCAN, M.D.

STATEMENT  
OF  
CHARGES

PETAR MUNCAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 11, 1993, by the issuance of license number 193243 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. From on or about April 9, 1999 through on or about March 1, 2000, Respondent treated Patient A (the identity of the patient is contained in the attached Appendix) in his office, and at either Lutheran Hospital, Brooklyn, N.Y. or Maimonides Hospital, Brooklyn, N.Y. Respondent's care of Patient A failed to meet minimally acceptable medical standards, in that:
1. On or about June 2, 1999, Respondent inappropriately performed a ureteroscopy and stone basketing and extraction of a calculus of a right junction of the upper and middle third of the ureter on Patient A.
  2. On or about June 2, 1999, during the course of the ureteroscopy and stone basketing, Respondent inappropriately caused an avulsion of the right junction of the upper and middle third of the ureter.

3. After the procedure, Respondent inappropriately discarded in the garbage container the 9 cm. piece of ureter he had avulsed during the basketing and failed to send the specimen to pathology.
4. Respondent concealed, with the intent to deceive, the 9 cm. piece of ureter that he had inappropriately removed during the basketing, by failing to send the specimen to pathology for examination.
5. Patient A was released from Lutheran Hospital on June 6, 1999 with a percutaneous nephrostomy. Patient A returned to Respondent's office for post-op care beginning with her visit of June 9, 1999. Respondent failed to perform a urinalysis on June 9, 1999 or June 23, 1999.
6. Respondent failed to perform appropriate tests on Patient A's kidney prior to determining that a total right nephrectomy was required.
7. Respondent failed to offer Patient A alternatives to a total right nephrectomy.
8. On or about July 13, 1999, Patient A was admitted as an emergency admission to Maimonides Medical Center for urosepsis therapy to be followed by right nephrectomy due to a non-functioning right kidney. Patient A's clinical condition did not support Respondent's diagnosis of non-functioning kidney.

9. Respondent falsely and with the intent to deceive represented to Patient A that her right kidney needed to be removed due to infection.
  10. Respondent failed to obtain a nephrology consultation prior to performing a right nephrectomy.
  11. On or about July 21, 1999, Respondent performed a nephrectomy on Patient A's right kidney falsely noting in the hospital record that the kidney was non-functioning. Respondent knew that this diagnosis was false and engaged in this communication with the intent to deceive.
  12. Patient A was released from Maimonides Medical Center on July 26, 1999. Patient A returned to Respondent's office for post-op care beginning with her visit of August 2, 1999. Respondent failed to perform a blood pressure or urinalysis on August 2, 1999, or September 1, 1999.
  13. Respondent failed to maintain records for Patient A which accurately reflected his care and treatment of Patient A.
- B. On or about December 5, 2000, the Administrative Review Board of the State Board for Professional Medical Conduct affirmed an August 22, 2000, Hearing Committee Decision of the SBPMC that Respondent's treatment of Patient B, in 1999, was grossly negligent when he:
- performed a left radical nephrectomy without reviewing the CT scan

films and MRI films prior to the surgery.

- failed to have the MRI or CT scan films in the operating room of Maimonides Medical Center when he performed the left nephrectomy on Patient B.
- at the time of the surgery, failed to perform an adequate intra-operative examination of the left kidney.
- after the kidney was removed, failed to perform an adequate examination of the kidney.
- failed to reconcile the removal of a tumor-free kidney with the pre-operative diagnosis of a 5x7 cm lobulated heterogeneous mass.

### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

##### **GROSS NEGLIGENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 2001) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

1. Paragraph A and its subparagraphs excluding subparagraphs A4, A9, and A11.

#### **SECOND SPECIFICATION**

##### **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y.

Educ. Law §6530(3)(McKinney Supp. 2001) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraph A and its subparagraphs excluding subparagraphs A4, A9, A11; and Paragraph B.

### **THIRD SPECIFICATION**

#### **INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 2001) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

3. Paragraph A and its subparagraphs excluding subparagraphs A4, A9, A11; and Paragraph B.

### **FOURTH THROUGH SIXTH SPECIFICATIONS**

#### **FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 2001) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

4. Subparagraph A4.
5. Subparagraph A9.
6. Subparagraph A11.

### **SEVENTH SPECIFICATION**

#### **FAILURE TO MAINTAIN RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y.

Educ. Law §6530(32)(McKinney Supp. 2001) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

7. Subparagraph A13.

DATED: February 15, 2001  
New York, New York



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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct