
IN THE MATTER
OF
CARLOS LOUIS HENRIQUEZ, III, M.D.

MODIFICATION
ORDER
BPMC #01-294

Upon the proposed Application for a Modification Order of **CARLOS LOUIS HENRIQUEZ, III, M.D.**, (Respondent), which is made a part of this Modification Order, it is agreed to and

ORDERED, that the attached Application, and its terms, are adopted and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either by mailing of a copy of this Modification Order, by first class mail, to Respondent at the address in the attached Application or by certified mail to Respondent's attorney, or upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 7-11-2008

Redacted Signature

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
CARLOS LOUIS HENRIQUEZ, III, M.D.

APPLICATION TO
MODIFY CONSENT ORDER
BPMC # 01-294

CARLOS LOUIS HENRIQUEZ, III, M.D., (Respondent) deposes and says:

That on or about September 28, 1965, I was licensed to practice as a physician in the State of New York, and issued License No. 095347 by the New York State Education Department.

My current address is [Redacted Address], [Redacted Address], New York 11

I am currently subject to CONSENT ORDER BPMC No. 01-294, dated November 30, 2001, (Exhibit A) (hereinafter "Original Order"), which was issued upon a Consent Agreement and Order signed by me on November 14, 2001, adopted by the Original Order.

I apply, hereby, to the State Board for Professional Medical Conduct for a Modification Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the paragraphs in the Original Order that state:

- "1. My license to practice medicine shall be suspended for a period of 4 years, 45 days shall be actual, the balance of the suspension shall be stayed in its entirety provided that I shall comply with this agreement and the terms of Probation annexed hereto as Exhibit B. The period of Probation shall commence upon issuance of this Order to Respondent. The 45 day period of actual license suspension shall commence on January 31, 2002.
2. My license to practice medicine shall be permanently limited to require compliance with the chaperone condition of Exhibit C.
3. I agree to undergo evaluation and treatment by a practitioner specializing in the area of sexual misconduct by professionals. Such treatment shall be for a period of not less than 4 years in accordance with the probation terms annexed hereto as Exhibit B.

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and"

Substituting for Paragraphs 1, 2, and 3, above:

" 1. I shall never activate my registration to practice medicine in New York state or seek to reapply for a license to practice medicine in New York state."

The Modification Order to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language in the Original Order.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

AFFIRMED:

DATED: 7/3/08

Redacted Signature

CARLOS LOUIS HENRIQUEZ, III, M.D.
Respondent

The undersigned agree to Respondent's attached Application and to the proposed penalty based on its terms and conditions thereof.

DATE: 7 July 2008

Redacted Signature
ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: July 11, 2008

Redacted Signature
KEITH W. SERVIS
Director
Office of Professional Medical Conduct



EXHIBIT A

New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

December 3, 2001

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Carlos Louis Henriquez, III, M.D.
110 Creek Locks Road
P.O. Box 449
Rosendale, New York 12472

RE: License No. 095347

Dear Dr. Henriquez:

Enclosed please find **REVISED** Order #BPMC 01-294 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect November 29, 2001.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Cappy Weiner, Esq.
Miller, Weiner and Assoc., P.C.
270 Fair Street
P.O. Box 4030
Kingston, New York 12401

Joseph Cahill, Esq.

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

IN THE MATTER
OF
CARLOS LOUIS HENRIQUEZ, III, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC No. 01-294

Carlos Louis Henriquez, III, M.D., (Respondent) says:

That on or about September 28, 1965, I was licensed to practice as a physician in the State of New York, having been issued License No. 095347, by the New York State Education Department.

My current address is 110 Creek Locks Road, P.O. Box 449, Rosendale, New York, 12472, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with 22 specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit guilt to the following Specifications, in full satisfaction of the charges against me:

Moral Unfitness - 2nd Specification: Paragraphs B and B.1, a-h.

Negligence on More than One Occasion - 9th Specification: Paragraphs B and B.1 e, D and following, E and following, F and following.

Fraud - 12th Specification: Paragraphs B and B.1 c, d and e, 13th Specification.

False Report - 14th Specification.

Application Fraud - 15th Specification.

Excessive Testing - 16th Specification.

Record keeping - 18th, 19th, 20th, 21st and 22nd Specifications.

I hereby agree to the following penalty:

1. My license to practice medicine shall be suspended for a period of 4 years, 45 days shall be actual, the balance of the suspension shall be stayed in its entirety provided that I shall comply with this agreement and the terms of Probation annexed hereto as Exhibit B. The period of Probation shall commence upon issuance of this Order to Respondent. The 45 day period of actual license suspension shall commence on January 31, 2002.
2. My license to practice medicine shall be permanently limited to require compliance with the chaperone condition of Exhibit C.
3. I agree to undergo evaluation and treatment by a practitioner specializing in the area of sexual misconduct by professionals. Such treatment shall be for a period of not less than 4 years in accordance with the probation terms annexed hereto as Exhibit B.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that

such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

DATED 11/14/01

~~Redacted Signature~~
CARLOS LOUIS HENRIQUEZ, III, M.D.
Respondent

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: Nov 15 01

Redacted Signature

CAPPY WEINER, ESQ.
Attorney for Respondent

DATE: Nov 14, 01.

Redacted Signature

JOSEPH H. CAHILL, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: November 28, 2001

Redacted Signature

DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

EXHIBIT B

TERMS OF PROBATION

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession. Respondent acknowledges that if s/he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Within thirty (30) days of the effective date of the Order, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 10%) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported with 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with § 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. Respondent shall perform 50 hours of community service to be completed within the first year of probation. The service must be medical in nature, and delivered in a facility or with an organization equipped to provide medical service and serving a needy or medically underserved population. A written proposal for community service must be submitted to, and is subject to the written approval of the Director of OPMC. Community service performed prior to written approval shall not be credited toward compliance with this Order.
9. Respondent shall enroll in and complete a continuing education program in the areas of diagnosis of breast cancer, treatment of diabetes, treatment of asthma, patient histories and physical examinations. Respondent shall complete at least 30 credit hours of Continuing Medical Education per year, covering one or more of these topics. The 30 credit hours per year shall be over and above the recommended minimum standards set by the American Board of Family Practice. Said Continuing Education program shall be subject to the prior written approval of Director of OPMC and be completed during each of the 4 years of Probation specified in this Order.
10. Respondent, at his own expense and within 45 days of the effective date of this Order, shall provide the Director of OPMC with an evaluation and proposed treatment plan from practitioner specializing in the treatment of professional sexual misconduct. This practitioner must be approved, in writing, by the Director of OPMC prior to the evaluation and treatment of the Respondent. At a minimum, the treatment plan shall include ongoing therapy and a behavior monitoring program to prevent physician sexual misconduct.
11. Upon notification of approval by the Director of OPMC, Respondent shall implement the treatment plan. In the event that the Director of OPMC does not approve the proposed treatment plan, this matter shall be returned to the Board for further consideration.
12. Respondent shall engage in ongoing therapy for a period of four (4) years. The therapist shall be proposed by Respondent and approved in writing by the Director of OPMC. The therapist shall be fully aware of the nature of the charges against Respondent and shall not be a personal friend.

13. Respondent shall obtain and fully cooperate with a behavior monitor for a period of four (4) years. The behavior monitor proposed by Respondent must be a licensed health care professional and must be approved, in writing, by OPMC. Said monitor shall be fully aware of the provisions of this Order. The Director of OPMC and the behavior monitor shall have full access to the information collected in the behavior monitoring program referred to in paragraphs 10-12 herein.

14. Respondent agrees that the behavior monitor and all treatment providers must be willing to cooperate in making reports as requested by OPMC for four (4) years. The behavior monitor shall submit to OPMC quarterly progress reports detailing either compliance or noncompliance with treatment recommendations. Additionally, the behavior monitor and all treatment providers shall complete a comprehensive annual evaluation. All reports shall be submitted to OPMC within 30 days of the completion of the relevant time period.

15. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of monitoring proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

EXHIBIT C
CHAPERONE

- Respondent shall, in the course of practicing medicine in New York State, examine and/ treat any female patient only in the presence of a chaperone. The chaperone shall be a female licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written the approval of the Director of OPMC.
- Prior to the approval of any individual as chaperone, Respondent shall cause the proposed chaperone to execute and submit to the Director of OPMC an acknowledgment of her agreement to undertake all of the responsibilities of the role of chaperone. Said acknowledgment shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone to:
 - a. Report quarterly to OPMC regarding her chaperoning of Respondent's practice.
 - b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have the chaperone present when required, any sexually suggestive or otherwise inappropriate comments by Respondent to any patient, and any actions of a sexual nature by Respondent in the presence of any patient.
 - c. Confirm the chaperone's presence at each and every examination and treatment of a female patient by Respondent, by placing her name, title and date in the patient record for each and every visit, and by maintaining a separate log, kept in her own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
 - d. Provide copies of the log described in paragraph c, above, to OPMC at least quarterly and also immediately upon the Director's request.

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

IN THE MATTER

OF

CARLOS LOUIS HENRIQUEZ, III, M.D.

CONSENT

ORDER

Upon the proposed agreement of Carlos Louis Henriquez, III, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 11/30/01

Redacted Signature

WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
CARLOS LOUIS HENRIQUEZ, III, M.D. : CHARGES

-----X

Carlos Louis Henriquez, III, M.D., Respondent, was authorized to practice medicine in New York State on or about September 28, 1965 by the issuance of license number 095347 by the New York State Education Department. Respondent's registration address is 110 Creek Locks Road, P. O. Box 449, Rosendale, New York 12472.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A [patients are identified in Appendix] on various occasions from on or about February 23, 1993 through on or about January 5, 1994 at Respondent's office located at Medical Associates of Rosendale, 110 Creek Locks Road, P O Box 449, Rosendale New York 12472. (Hereinafter Respondent's office) Respondent treated Patient A for various physical conditions, including sinusitis, bronchitis, disc herniation and anemia. Respondent ordered, at various times, CT scans, X-Rays, and prescription medications for Patient A. Respondent also purported to diagnose and treat Patient A's anxiety and/or depression.

Respondent, at various times between approximately August 1993 and November 1993, engaged in an inappropriate personal, social, and sexual relationship with Patient A in that:

1. Respondent, during a visit by Patient A in August of 1993 for medical care, engaged in the following conduct:

- a) Respondent told Patient A that he had been in therapy for the previous 30 years and was then seeing a therapist for obsession and hypochondria, or words to that effect.
- b) Respondent told Patient A that with all this experience, as well as being a medical doctor, he felt qualified to help Patient A with her depression, or words to that effect.
- c) Respondent asked Patient A if she was having sex or masturbated, or words to that effect.
- d) Respondent told Patient A he wasn't going to write down anything about what he had just discussed with Patient A and that he would accept Patient A's GHI insurance in full for therapy, or words to that effect.

2. Respondent during a subsequent visit by Patient A for medical care at Respondent's office in August/September of 1993, engaged in the following conduct:

- a) Respondent told Patient A she was a beautiful woman and had a lot going for her, or words to that effect.
- b) Respondent asked Patient A if she liked sex. Patient A said no. Respondent replied that Patient A was a very pretty woman and deserved to be happy, or words to that effect.
- c) Respondent then asked Patient A if she had orgasms or masturbated, or words to that effect.

- d) Respondent told Patient A that Freud had studied women's sexual needs. Respondent told Patient A that Freud believed woman needed orgasms and depression had something to do with women not having orgasms, or words to that effect.
- e) Respondent told Patient A that she could call him anytime, day or night. Respondent told Patient A that she could even call him in the middle of the night.

3. Respondent during September 1993, engaged in the following conduct toward Patient A:

- a) Respondent met Patient A at the Highland Park Diner.
- b) Respondent, while in his parked car with Patient A, told Patient A that he loved her and would help her, or words to that effect.
- c) Respondent rubbed Patient A's back and kissed her.
- d) Respondent told Patient A all she needed was affection.
- e) Respondent told Patient A "Here is a prescription for sex", or words to that effect, took out a prescription pad and pretended to write "sex" on it.
- f) Respondent told Patient A he would help her get a job, or words to that effect.
- g) Respondent told Patient A she was sexy, or words to that effect.

4. Respondent, during a visit by Patient A for medical care in September of 1993 at Respondent's Office engaged in the following conduct:

- a) Respondent kissed Patient A, touched her breasts and repeatedly told her he loved her, or words to that effect.

- b) Respondent told Patient A he would help her find a job and that he knew a physical therapist who needed a live-in house cleaner, or words to that effect.
- c) Respondent asked Patient A to meet him at a Chinese restaurant one-half hour after a medical appointment. Respondent told Patient A he wanted to have sexual intercourse with her, or words to that effect.
- d) Respondent and Patient A later returned to Respondent's office where Respondent had sexual relations with Patient A in one of the office examination rooms.

5. Respondent, during the period of time from approximately September 22, 1993 through approximately November 18, 1993, engaged in the following conduct toward Patient A:

- a) Respondent repetitively telephoned Patient A to pursue a personal/sexual relationship with her.
- b) Respondent gave Patient A his telephone page number and told Patient A to call through his service, or words to that effect.
- c) Respondent told Patient A he wanted to meet her in his office so that she would continue "to look like a patient," or words to that effect.
- d) Respondent told Patient A he wanted to marry her, or words to that effect.
- e) Respondent had sexual intercourse with Patient A on multiple occasions. Such sexual intercourse occurred at Respondent's office and also at Patient A's place of residence.
- f) Respondent asked Patient A to come to New York City with him and visit places specializing in unusual sexual activities, or words to that effect.
- g) Respondent told Patient A she would make a great exotic dancer and she should apply for such a job with a local bar, or words to that effect.

- h) Respondent asked Patient A to become a party to sexually explicit phone calls using a 900 telephone line exchange.
- i) Respondent called a sexually explicit 900 telephone line number in Patient A's presence so that she could hear what the calls sounded like.
- j) Respondent told Patient A that he loved her because she was "his little fantasy world, not reality", or words to that effect.
- k) Respondent told Patient A her religious faith was not real and that her belief in that faith was silly, or words to that effect.

6. Respondent billed Patient A's insurance carrier for medical visits between September 1993 and mid-November 1993 when in fact he was pursuing a personal and sexual relationship with Patient A.

7. Respondent billed Patient A's insurance carrier for the provision of medical services but failed to provide and/or document the provision of such services in his office notes for the following dates:

- a) September 21, 1993
- b) September 22, 1993
- c) November 1, 1993
- d) November 13, 1993

8. Respondent failed to maintain records which accurately reflected Patient A's condition and treatment.

9. Respondent's care and treatment of Patient A failed to meet accepted standards of medical care in that:

- a) Respondent failed to record in his office notes that Patient A voiced suicidal ideation on repeated occasions in September and October of 1993.
- b) On September 8, 1993 and again on September 15, 1993 Respondent, with regard to the diagnosis of anxiety for Patient A:
 - (i) failed to take and/or record an adequate history;
 - (ii) failed to establish and/or record an adequate treatment plan.
- c) On September 10, 1993, Respondent failed to establish and/or record an adequate treatment plan with respect to the diagnosis of anemia for Patient A.
- d) On September 24, 1993, Respondent failed to perform and/or record an adequate physical examination of Patient A's lower back.
- e) On September 26, 1993, Respondent failed to obtain and/or record an adequate history with respect to the diagnosis of anxiety for Patient A.
- f) On October 7, 1993, October 8, 1993 and November 2, 1993, Respondent failed to adequately evaluate and/or record an evaluation of Patient A's condition that had required Respondent to make each house call.
- g) On November 14, 1993, Respondent with respect to Patient A's condition following an emergency room visit of November 13, 1993:
 - i) failed to take and/or record an adequate history;
 - ii) failed to perform and/or record an adequate physical examination;
 - iii) failed to establish and/or record an adequate treatment plan.

B. Respondent provided medical care to Patient B on various occasions from on or about February 2, 1996 through on

or about August 2, 1996, at the Ulster County Methadone Maintenance Program located at 239 Golden Hill Lane, Kingston, New York, 12401.

1. Respondent, on various occasions during the period of time when he provided medical care to Patient B at this facility, engaged in the following conduct:

- a) Respondent told Patient B she looked very sexy, or words to that effect.
- b) Respondent asked Patient B if she was dressing especially for him, or words to that effect.
- c) Respondent increased the length of the medical visits with Patient B and also increased the frequency of the visits, without medical justification.
- d) Respondent, during these extended office visits had conversations with Patient B related to sex.
- e) Respondent asked Patient B about her history of sexual abuse and molestation. When Patient B told Respondent that she thought issues of sex abuse should be discussed with a psychiatrist, Respondent told Patient B there was no reason to see another physician because he and Patient B had a good relationship and Patient B was comfortable talking to him, or words to that effect. Respondent never referred Patient B to a psychiatrist while she was at the facility.
- f) Respondent told Patient B that all the guys in the clinic were saying about Patient B, "she's so pretty, I want her". Respondent then asked Patient B "How does this make you feel sexually?", or words to that effect.
- g) Respondent asked Patient B about her sexual fantasies.
- h) Respondent asked Patient B how sex was different when she was high, versus when she was clean or straight, or words to that effect.

- i) Respondent, on another occasion, placed his hand on Patient B's leg for an extended time, without medical justification.
- j) Respondent, during an office visit with Patient B removed his tailored, long sleeve shirt and showed Patient B the softball tee shirt he had been wearing underneath the dress shirt. He then asked Patient B if he looked better in the tee shirt.
- k) Respondent, on or about June 12, 1996 canceled Patient B's appointment due to lateness and then told the nurse on duty he would reschedule Patient B for an appointment later that week. On the same day, Respondent then took Patient B out of line and told her "let's go have our appointment," or words to that effect. Respondent then brought Patient B into his office for a lengthy time. During this visit Respondent stood up, embraced Patient B and pulled her body towards his, causing her breasts to press against Respondent's chest. Respondent told Patient B, "You understand what I want, and I understand what you need," or words to that effect. Respondent also told Patient B "You know what you need to do to stay on the program," or words to that effect.

C. Respondent's New York medical license was suspended for 18 months, which suspension was stayed and Respondent was placed on Probation for 18 months, pursuant to Consent Order # 9254 issued by the New York State Commissioner of Education, effective January 1989.

1. On or about February 28, 1992, Respondent submitted an application for reappointment for privileges at Benedictine Hospital, Kingston, New York. Respondent fraudulently answered "No" to the following question:

"Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?"

In fact, pursuant to Consent Order #9254 set forth above, Respondent knew that such answer was false.

2. Thereafter, Respondent in his March 21, 1996 application for medical licensure in the Commonwealth of Virginia answered "NO" to Question 10 which asked:

"Whether any disciplinary actions have been taken against your license?"

In fact, Respondent knew that the above described New York State disciplinary action resulting in Consent Order #9254 had been taken against his license.

D. Patient C, then a 31 year old pregnant female, presented to the Kingston Hospital Emergency Room on March 5, 1995 with status asthmaticus and possible pneumonia. Patient C was admitted on Respondent's service to Kingston Hospital from the Emergency Room on March 5, 1995 at approximately 23:42. Respondent did not arrive at Kingston Hospital to see Patient C in person until approximately 16:40 on March 6, 1995. Respondent's care and treatment of Patient C failed to meet accepted standards of medical care in that:

1. Respondent failed to timely respond to Patient C's condition.

2. Respondent failed to adequately evaluate, assess and/or treat Patient C and/or to make appropriate and timely arrangements for another physician to do so in his absence.

3. Respondent failed to give timely and/or adequate notice to the patient and/or hospital staff concerning his delay in evaluating Patient C.

4. Respondent failed to obtain and/or document a timely patient history.

5. Respondent failed to perform and/or document the performance of a timely physical examination of Patient C.

6. Respondent failed to maintain a record for Patient C in accordance with accepted medical standards and in a manner that accurately reflected his care and treatment of Patient C.

7. Respondent failed to respond to urgent telephone calls from Patient C and/or her obstetrician concerning the patient's condition.

8. Respondent provided medical care to Patient D from approximately August 12, 1994 through approximately October 27, 1994 at Benedictine Hospital located at 105 Mary's Avenue, Kingston, New York (hereafter Benedictine Hospital). Respondent's care and treatment of Patient D failed to meet accepted standards of medical care in that:

1. Respondent failed to obtain and/or document an adequate history.

2. Respondent failed to perform and/or document the performance of an adequate and timely physical examination, including a breast examination of Patient D.

3. Respondent failed to adequately evaluate and/or document the evaluation of the "infections in both legs" set forth by Respondent in his history and physical examination chart entry.

4. Respondent failed to adequately examine Patient D prior to September 13, 1994, at which time a consultant noted breast mass, 3cm in size, hard and adherent to the skin, in Patient D's left breast.

5. Respondent failed to order timely nutritional supplementation for Patient D.

6. Respondent failed to perform and/or document adequate discharge planning for Patient D.

F. Respondent provided medical care to Patient E from approximately October 28, 1994 through approximately November 8, 1995 at his office and at Benedictine Hospital. Respondent's care and treatment of Patient E failed to meet accepted standards of medical care in that:

1. Respondent failed to adequately address Patient E's elevated blood sugar levels prior to September 18, 1995.

2. Respondent failed to adequately treat Patient E's condition on September 18, 1995 when she presented with "increased thirst, increased fatigue and polyuria" and a blood sugar of 413.

3. Respondent failed to maintain adequate, accurate and/or legible records for Patient E.

G. Respondent provided medical care to Patient F from approximately November 5, 1993 to approximately November 9, 1993 at Benedictine Hospital. Respondent's care and treatment of Patient F failed to meet accepted standards of medical care, in that:

1. Respondent failed to obtain and/or document an adequate history for Patient F.

2. Respondent failed to perform and/or document the performance of an adequate and timely physical examination of Patient F.

3. Respondent recorded Patient F's heart rhythm as spontaneous in his physical examination finding on November 5, 1993 while Respondent's history of the same date indicated Patient F had a pacemaker.

4. Respondent reported Patient F as "Neurologically intact" in his physical examination findings on November 5, 1993 despite noting that the patient was confused and had a loss of memory in a history note on the same date.

5. Respondent failed to perform and/or record an examination of Patient F relating to possible edema, swelling, cyanosis or pulse intensity.

6. Respondent failed to take adequate measures to ascertain Patient F's medications on admission.

7. Respondent failed to accurately record Patient F's treatment/medications in his discharge notes.

H. Respondent provided medical care to Patient G from approximately February 22, 1993 through at least April 29, 1993 at his medical office. Respondent's care and treatment of Patient G failed to meet accepted standards of medical care in that:

1. Respondent ordered laboratory tests for Patient G that were not indicated by the patient's condition as set forth in Respondent's office notes. The following laboratory tests were not indicated:

- a) Free T3, b) Free T4, c) Gastrin, d) Haptoglobin
- e) Magnesium/RBC Beta Carotene, f) Ferritin, g) Vitamin A, h) Vitamin B1/RBC, i) Vitamin B2/RBC, j) Vitamin B12, k) Folate, l) Ascorbate, m) 25 Hydroxy Vitamin D, n) Selenium, o) Zinc

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with professional misconduct by reason of his committing 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:

1. The facts in Paragraph A and A.1(a), and/or A.1(b), and/or A.1(c), and/or A.1(d), and/or A.2(a), and/or A.2(b), and/or A.2(c), and/or A.2(d), and/or A.2(e), and/or A.3(a), and/or A.3(b), and/or A.3(c), and/or A.3(d), and/or A.3(e), and/or A.3(f), and/or A.3(g), and/or A.4(a), and/or A.4(b), and/or A.4(c), and/or A.4(d), and/or A.5(a), and/or A.5(b), and/or A.5(c), and/or A.5(d), and/or A.5(e), and/or A.5(f), and/or A.5(g), and/or A.5(h), and/or A.5(i), and/or A.5(j), and/or A.5(k) and/or A.6.

2. The facts in Paragraph B and B.1 (a), and/or B.1 (b), and/or B.1 (c), and/or B.1 (d), and/or B.1 (e), and/or B.1 (f), and/or B.1 (g), and/or B.1 (h), and/or B.1 (i), and/or B.1(j), and/or B.1 (k).

THIRD THROUGH FIFTH SPECIFICATIONS

GROSS NEGLIGENCE

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

3. The facts in Paragraph A and A.9.
4. The facts in Paragraph D and D.1.
5. The facts in Paragraph F and F.2.

SIX THROUGH EIGHTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with practicing medicine with gross incompetence in violation of the New York Education Law, § 6530 (6) in that Petition charges:

6. The facts in Paragraph A and A.9.
7. The facts in Paragraph D and D.1.
8. The facts in Paragraph F and F.2.

NINTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

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

9. The facts in Paragraphs A and A.8 and/or A.9(a), and/or A.9(b) (i), and/or A.9(b) (ii), and/or A.9 (c), and/or A.9(d), and/or A.9(e), and/or A.9(f), and or A.9(g) (i), and or A.9(g) (ii), and/or A.9(g) (iii), and or B and B.1(e), and/or D and D.1, and/or D.2, and/or D.3, and/or D.4, and/or D.5, and/or D.6, and/or D.7, and/or E and E.1, and/or E.2, and/or E.3, and/or E.4, and/or E.5, and/or E.6, and/or F and F.1, and/or F.2, and/or F.3, and or G and G.1, and/or G.2, and/or G.3, and/or G.4, and/or G.5, and/or G.6, and/or G.7, and/or H1. (a)-(o).

TENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

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

10. The facts in Paragraphs A and A.8 and/or A.9(a), and/or A.9(b) (i), and/or A.9(b) (ii), and/or A.9 (c), and/or A.9(d), and/or A.9(e), and/or A.9(f), and or A.9(g) (i), and or A.9(g) (ii), and/or A.9(g) (iii), and or B and B.1(e), and/or D and D.1, and/or D.2, and/or D.3, and/or D.4, and/or D.5, and/or D.6, and/or D.7, and/or E and E.1, and/or E.2, and/or E.3, and/or E.4, and/or E.5, and/or E.6, and/or F and F.1, and/or F.2,

and/or F.3, and or G and G.1, and/or G.2, and/or G.3, and/or G.4, and/or G.5, and/or G.6, and/or G.7, and/or H1.(a)-(o).

ELEVENTH THROUGH THIRTEENTH SPECIFICATION

FRAUD

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

11. The facts in Paragraph A and A.1(d), and/or A.2 (d), and/or A.5(a), and/or A.5(c), and/or A.6, and/or A.7(a)-(d).
12. The facts in Paragraph B and B.1(c), and/or B.1 (d), and/or B.1(e), and/or B.1(j).
13. The facts in Paragraphs C and C.1, and/or C.2.

FOURTEENTH SPECIFICATION

MAKING A FALSE REPORT

Respondent is charged with professional misconduct by reason of willfully making or filing a false report, in violation of New York Education Law, § 6530 (21), in that Petitioner charges:

14. The facts in Paragraph C and C.1, and/or C.2.

FIFTEENTH SPECIFICATION

2805-k: APPLICATION FRAUD

Respondent is charged with professional misconduct by reason of his submission of fraudulent statements on an application for hospital privileges in violation of New York Education Law § 6530 (14), more particularly a violation of § 2805-k of the Public Health Law, in that Petitioner charges:

15. The facts in Paragraph C and C.2.

SIXTEENTH SPECIFICATION

EXCESSIVE TESTING

Respondent is charged with professional misconduct under the New York Education Law § 6530 (35) by reason of his ordering of excessive tests, treatment or use of treatment facilities not warranted by the condition of the patient, in that Petitioner charges:

16. The facts in Paragraphs H1.(a-o).

SEVENTEENTH THROUGH TWENTY-SECOND SPECIFICATIONS

FAILURE TO MAINTAIN ACCURATE RECORDS

Respondent is charged with professional misconduct under New York Education Law § 6530 (32) by reason of his failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that

Petitioner charges:

17. The facts in Paragraphs A and A.1(d), and/or A.6, and/or A.7(a)-(d), and/or A.8, and/or A.9(a), and/or A.9(b)(i), and/or A.9(B)(ii), and/or A.9(c), and/or A.9(d), and/or A.9(e), and/or A.9(f), and/or A.9(g)(i), and/or A.9(g)(ii), and/or A.9(g)(iii).
18. The facts in Paragraphs B and B.1(d), and/or B.1(e), and/or B.1(j).
19. The facts in Paragraphs D and D.4, and/or D.5, and/or D.6.
20. The facts in Paragraphs E and E.1, and/or E.2, and/or E.3, and/or E.6.
21. The facts in Paragraph F and F.3.
22. The facts in Paragraphs G and G.1, and/or G.2, and/or G.3, and/or G.4, and/or G.5, and/or G.7.

DATED: *August 20*, 2001
Albany, New York

Redacted Signature

[Handwritten Signature]
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct