

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

August 15, 1990

Chandrakumar B. Agrawal, Physician
315-18 87th Street
Jackson Heights, N.Y. 11369

104-01 Roosevelt Avenue
Corona, N.Y. 11368

139-41 35th Avenue
Flushing, N.Y. 11354

Re: License No. 153744

Dear Dr. Agrawal:

Enclosed please find Commissioner's Order No. 10884/7783. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By:

MOIRA A. DORAN
Supervisor

DJK/MAH/er

Enclosures

CERTIFIED MAIL- RRR

cc: Ferdinand L. Vari, Esq.
Cerchiara and Vari, Esqs.
145 Mount Vernon Avenue
Mount Vernon, N.Y. 10550

RECEIVED

AUG 20 1990

Office of Professional
Medical Council

**REPORT OF THE
REGENTS REVIEW COMMITTEE**

CHANDRAKUMAR B. AGRAWAL

CALENDAR NOS. 10884/7783



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

CHANDRAKUMAR B. AGRAWAL

Nos. 10884/7783

who is currently licensed to practice
as a physician in the State of New York.

REPORT OF THE REGENTS REVIEW COMMITTEE

CHANDRAKUMAR B. AGRAWAL, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

The instant disciplinary proceeding was properly commenced by the service on October 11, 1986 of the statement of charges dated September 15, 1986. That statement of charges contained twenty-four specifications. See transcript page 11 (hereafter T. ____). A copy of that statement of charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

Between November 13, 1986 and February 19, 1987 a hearing was held in three sessions before a hearing committee of the State Board for Professional Medical Conduct. At the outset of the hearing, petitioner attempted to amend the charges. A series of

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clerical errors was made by petitioner's attorney in amending the charges. The amended statement of charges dated November 12, 1986 were withdrawn from being offered into evidence, T. 12, and are, therefore, not an evidence in this matter. Thereafter, a different amended statement of charges was offered by petitioner in its motion to conform the pleadings to the proof and was received in evidence by the Administrative Officer as petitioner's Exhibit 1-A before the evidence on which it was based was admitted. T. 49. The Administrative Officer ruled that respondent was not prejudiced by the admission of this amended statement of charges into the record. A copy of that amended statement of charges admitted into evidence is annexed hereto, made a part hereof, and marked as Exhibit "B".

On April 21, 1987, the hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "C". The hearing committee concluded that respondent was guilty as indicated in four paragraphs of its report including sixteen subdivisions. The hearing committee did not specifically relate its conclusions to the thirty specifications of the charges. The April 21, 1987 report recommended that respondent's license to practice medicine in the State of New York be revoked and that a fine of \$27,000 be assessed against respondent.

The Commissioner of Health recommended to the Board of Regents

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that the findings and conclusions of the hearing committee be accepted in full, and the recommendation of the hearing committee be accepted, except that the monetary portion of the penalty be modified to \$12,000 based upon a \$1,000 fine per falsified document. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "D".

After hearing oral argument in this matter, this Regents Review Committee issued a report, dated October 5, 1988, recommending a remand to the Administrative Officer to prepare an amended report of the hearing committee specifically addressing three areas which required clarification and identifying and referring to each specification by number and not by paragraph or subparagraph. A copy of the October 5, 1988 report of the Regents Review Committee is annexed hereto, made a part hereof, and marked as Exhibit "E".

The Board of Regents voted on October 21, 1988 to accept the recommendation of the Regents Review Committee. The Commissioner of Education issued his November 18, 1988 Order, under Calendar No. 7783, remanding the matter to the Administrative Officer consistent with the report of the Regents Review Committee. Copies of the Vote of the Board of Regents and the Order of the Commissioner of Education are attached hereto, made a part hereof, and marked as Exhibit "F".

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Upon remand, the substitute Administrative Officer prepared a compilation of thirty specifications of the charges. The hearing committee consulted with that Administrative Officer and, on December 14, 1989, rendered an amended report. That amended hearing committee report, including Attachment B which is the Administrative Officer's compilation of specifications, contains: eighteen findings of fact; specific conclusions that respondent is guilty of first through sixth, ninth through twenty-fourth, twenty-sixth, and twenty-ninth through thirtieth specifications, and not guilty of the seventh through eighth, twenty-fifth, and twenty-seventh through twenty-eighth specifications; and the recommendation that respondent's license to practice medicine in the State of New York be revoked and respondent be assessed a "civil penalty" of \$25,000. A copy of the amended report of the hearing committee is, without its Attachment A, annexed hereto, made a part hereof, and marked as Exhibit "G".

The Commissioner of Health on remand recommended that the findings, conclusions, and recommendation of the hearing committee be accepted in full. A copy of the recommendation of the Commissioner of Health on remand is annexed hereto, made a part hereof, and marked as Exhibit "H".

On May 31, 1990, respondent appeared before us and was represented by Ferdinand L. Vari, Esq.. Roy Nemerson, Esq., presented oral argument on behalf of the Department of Health.

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Petitioner's recommendation as to the measure of discipline to be imposed, should respondent be found guilty was "Same As (Health) Commissioner's Recommendation".

Respondent's recommendation as to the measure of discipline to be imposed, should respondent be found guilty, was "No Action by the Board of Regents".

Respondent's license to practice medicine in the State of Florida was revoked by Final Order dated December 31, 1981 of the Florida Board of Medical Examiners (Hearing committee finding 5). All references to the hearing committee are to the amended report on remand unless otherwise noted. By decision filed October 20, 1982, the District Court of Appeal of the State Florida, Fourth District, affirmed the decision of the Board of Medical Examiners revoking respondent's Florida license. On November 15, 1982, a stay pending appeal was revoked by the Florida Board of Medical Examiners for respondent's failure to comply with the terms of the stay.

Respondent applied on March 21, 1983 for a license to practice medicine in New York. Thereafter, on April 1, 1983 respondent was authorized to practice medicine in New York. Hearing committee finding 10.

On five occasions between June 23, 1983 and October 8, 1985, respondent made written applications for staff privileges to various institutions and falsely answered "no" to questions asking

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him whether his license to practice medicine in any jurisdiction had ever been revoked. Hearing committee findings 11, 8, 12, 16, 18; and Petitioner's Exhibits 5, 6, 7, 9, and 10.

The hearing committee and Commissioner of Health concluded that respondent was guilty of the third, fourth, and fifth specifications regarding practicing the profession fraudulently. The hearing committee wrote, in regard to the charges it sustained, that the documentary evidence presented by petitioner was overwhelming and the testimony presented by respondent was totally unpersuasive and lacking in credibility. Hearing committee discussion 13. We agree that respondent knowingly submitted false information with the intention to deceive others.

On the other hand, the hearing committee and Commissioner of Health concluded that respondent was not guilty of the seventh and eighth specifications. In the two applications involved in the seventh and eighth specifications, respondent answered "no" to the question whether his license in any jurisdiction had ever been revoked. Although these misrepresentations were knowingly and intentionally made by respondent, the hearing committee and Commissioner of Health rested their conclusions of not guilty upon the lack of proof by petitioner of the hospitals "reliance upon the false statements". Hearing committee discussion 15. We disagree. Reliance is not an element of this charge under Education Law §6509(2). So long as the intent is present, the statute is not

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construed to require that anyone actually rely upon or be misled by the statement. Tompkins v. Board of Regents, 299 N.Y. 465 (1949); Sherman v. Board of Regents, 24 A.D.2d 315 (3rd Dept. 1966). The statute is not concerned with private rights. The type of fraud encompassed by Education Law §6509(2) can be characterized as the intentional misrepresentation or concealment of a known fact. Brestin v. Commissioner of Education, 116 A.D.2d 35 (3rd Dept. 1986). In our unanimous opinion, respondent is guilty of the seventh and eighth specifications. Kleiner v. Sobol, ___ A.D.2d ___ (3rd Dept. May 24, 1990); Moyo v. Ambach, 136 A.D.2d 811 (3rd Dept. 1988).

The hearing committee concluded that respondent is guilty of the sixth and eighteenth specifications. We disagree with those conclusions. Although fraud may be established by a knowing concealment of a material fact, this charge may not be sustained on the basis of the hearing committee finding 15 which finds that the documentary evidence shows respondent merely failed to answer the question. In comparison, with respect to the twenty-fifth and twenty-eighth specifications, the hearing committee and Commissioner of Health conclude that respondent was not guilty because "the record demonstrates that Respondent failed to answer the question, rather than give a false answer." Hearing committee discussion 14. Yet, the hearing committee and Commissioner of Health do not explain their opposite conclusions as to the sixth

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and eighteenth specifications. In the absence of a finding of a knowing concealment, we unanimously recommend that the sixth and eighteenth specifications be dismissed. We note that the hearing committee's conclusion to sustain the eighteenth specification relies in part on finding of fact 19 which does not exist.

We note our rejection of respondent's defenses to his being found guilty of any fraudulent practices. As petitioner has shown, the decision of the Florida Board of Medical Examiners, which was not solely grounded on respondent's violation of FLA. STAT §458.1201(1)(c), was, as respondent's attorney acknowledged to us, upheld in full by the Florida Court. That agency decision was rendered by a "duly authorized" professional disciplinary agency.

Furthermore, respondent practiced the profession fraudulently on four other occasions. On May 12, 1982, respondent entered into a Voluntary Surrender of Controlled Substances Privilege Agreement with the United States Drug Enforcement Administration which had the effect of terminating and revoking respondent's DEA registration. Hearing committee finding 7. Between May 24, 1983 and June 1986 respondent falsely answered no to the question on the application for a DEA registration whether he ever surrendered a CSA registration. Hearing committee finding 9. We agree with the hearing committee and Commissioner of Health that respondent is guilty of the ninth through twelfth specifications based upon his knowing and intentional misrepresentations to the United States

Drug Enforcement Administration.

We unanimously conclude that respondent is guilty of the fifteenth through seventeenth and nineteenth through twenty-first specifications of the charges based upon respondent's unprofessional conduct under Education Law §6509(9) and 8 N.Y.C.R.R. §29.1(b)(6) of willfully making and filing false reports, as aforesaid. See Kleiner, supra.

With respect to the second specification, respondent answered, in his March 21, 1983 application for a license to practice medicine in New York, "no" to the question about his having ever been found guilty of unprofessional misconduct, professional misconduct, or negligence. Petitioner's Exhibit 4; hearing committee finding 10. Thus, we agree with the hearing committee and Commissioner of Health that respondent is guilty of the second specification of obtaining his license to practice medicine in New York fraudulently. However, respondent may not, at the same time be legally found guilty of practicing the profession fraudulently based on conduct committed prior to New York licensure, as the hearing committee and Commissioner of Health recommend, concerning the March 21, 1983 application. Accordingly, in our unanimous opinion, respondent is not guilty of the thirteenth specification. Also, respondent may not be found guilty of the fourteenth, twenty-fifth, and twenty-eighth specifications based on the pre-licensure conduct alleged therein.

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Other specifications should be dismissed because of deficiencies in the charges. The charges for the twenty-second through twenty-fourth specifications, regarding unprofessional conduct relating to DEA renewals, are drafted by repeating the second through ninth specifications. However, since this conduct was alleged only in the tenth through twelfth specifications, the twenty-second through twenty-fourth specifications do not apply to this conduct. We note the confused reference in the charges to paragraphs. There is no unprofessional conduct specification related to paragraph 6(ix). The 11 specifications -- the fourteenth through twenty-fourth -- are charged by repeating 12 paragraphs or subparagraphs.

The twenty-fifth through thirtieth specifications should be dismissed. The amended statement of charges, added as Petitioner's Exhibit 1A covering the twenty-fifth through thirtieth specifications, is unsigned and shows a blank line for the signature of Ms. Kathleen M. Tanner. This document was produced at the same hearing session on November 13, 1986 after a different version of the amended charges, signed and dated November 12, 1986, was offered but withdrawn by petitioner. (We have disregarded the separate copy of Petitioner's Exhibit 1A contained in the file transferred to us consisting of the same last page of the amended charges not in evidence, which refers to the seventeenth through nineteenth specifications and to the date of signature being

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November 12, 1986).

Moreover, the twenty-fifth through thirtieth specifications were added by a motion to conform the pleadings to the proof. However, at the time the motion was granted and these specifications were added to the record, there was no proof to which these charges could conform. The documents, which were not then admitted as proof, were only marked for identification at that point. In any event, the twenty-fifth through the thirtieth specifications should be dismissed to avoid the confusion caused by petitioner's attempts to add them.

Lastly, the first specification charging professional misconduct under Education Law §6509(5)(b) should be dismissed. The first specification does not allege any analogue under Education Law §6509 which would have been violated if respondent's conduct were committed in New York, as required by this statute. Neither the proof nor the findings relied on by the hearing committee established the elements of the first specification.

In our unanimous opinion, based on the foregoing pattern of 10 fraudulent applications made by respondent over a substantial period of time, respondent's license to practice medicine in the State of New York should be revoked. Respondent practiced the profession fraudulently on 9 occasions and obtained his license fraudulently on one other occasion. We recommend that no fine be imposed on respondent. The fines recommended by the hearing

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committee and Commissioner of Health inconsistently changed over time. The hearing committee, without allocation, recommended a fine of \$27,000 and now recommend a "civil penalty" of \$25,000. The Commissioner of Health initially recommended a \$12,000 fine based on \$1,000 per falsified document and now recommends an unallocated "civil penalty" of \$25,000. This unallocated recommendation is made by the Commissioner of Health in the same matter in which he previously stated that the hearing committee failed to explain its calculation. Although we find a fine to be not appropriate in view of the penalty we are recommending and the delay caused by petitioner and by the need to clarify the charges, hearing committee report, and recommendation of the Commissioner of Health, we find the varying recommendations of a fine or "civil penalty" ranging from \$12,000 to \$27,000 to be in excess of the \$10,000 fine which could have been recommended based upon an allocation of \$1,000 per falsified documents.

We unanimously recommend the following to the Board of Regents:

1. The findings of fact of the hearing committee and the recommendation of the Commissioner of Health as to those findings of fact be accepted, except finding of fact 13 not be accepted;
2. The conclusions of the hearing committee and Commissioner of Health be modified;

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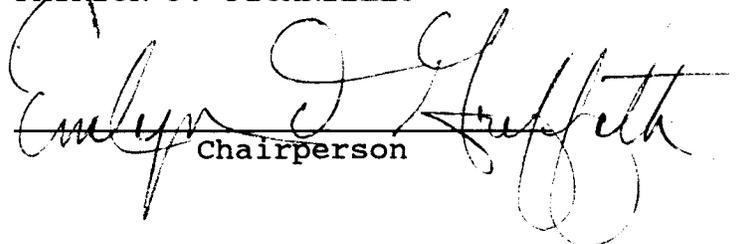
3. Respondent is guilty, by a preponderance of the evidence, of the second through fifth, seventh through twelfth, fifteenth through seventeenth, and nineteenth through twenty-first specifications and not guilty of the remaining specifications; and
4. The measure of discipline recommended by the hearing committee and Commissioner of Health be modified and respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which we recommend respondent be found guilty, as aforesaid. That respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein, but said application shall not be granted automatically.

Respectfully submitted,

EMLYN I. GRIFFITH

JANE M. BOLIN

PATRICK J. PICARIELLO


Chairperson

Dated:

7/18/90

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

.....X
IN THE MATTER :
OF : STATEMENT
CHANDRAKUMAR B. AGRAWAL, M.D. : OF
: CHARGES
.....X

The State Board for Professional Medical Conduct alleges as follows:

1. CHANDRAKUMAR B. AGRAWAL, M.D., Respondent, herein after referred to as Respondent, was authorized to practice medicine in the State of New York on April 1, 1983 by the issuance of license number 153744 by the State Education Department.

2. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1986 through December 31, 1988 at 139-41 35th Avenue, Flushing, New York 11354.

3. As set forth in the Specifications, Respondent herein is charged with professional misconduct pursuant to N.Y. Educ. Law §6509 (McKinney 1985).

EXHIBIT "A"

FIRST SPECIFICATION

4. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(5)(b) (McKinney 1985) in that he has been found guilty of professional misconduct by the duly authorized professional disciplinary agency of the State of Florida and on December 31, 1981, his license to practice medicine in the State of Florida was thereby revoked based on conduct which if committed in New York State would constitute misconduct under the laws of New York State as follows:

- (i) Between January, 1978 and April, 1978, Respondent prescribed approximately 333 Dilaudid tablets to a known addict, without medical indication, who informed Respondent that she was selling some of the Dilaudid tablets. Respondent was found to have shared in the proceeds of said sales in the amount of \$450.00 to \$500.00.
- (ii) Between January, 1978 and April, 1978 Respondent prescribed large quantities of controlled substances (Dilaudid, Quaaludes, and Preludin) to persons not his patients and without medical indication. In some cases, the prescriptions were dispensed for profit.

SECOND SPECIFICATION

5. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(1) (McKinney 1985) in that he obtained his license to practice medicine in New York State fraudulently as follows:

- (i) On or about March 21, 1983, Respondent filed an application for a license to practice medicine in New York State with the State Education Department. On that application, he falsely answered "no" to the question "Have you ever been found guilty of unprofessional conduct, professional misconduct or negligence?".

THIRD THROUGH THIRTEENTH SPECIFICATION

6. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- (i) On or about June 23, 1983, Respondent made written application for staff privileges to Misericordia Hospital Medical Center on which he falsely answered "no" to the question: "Has your license to practice medicine or any professional branch of the healing arts ever been suspended or revoked?"
- (ii) On or about September, 1983, Respondent made written application for staff privileges to Union Hospital of the Bronx on which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"
- (iii) On or about November 15, 1983, Respondent made written application for staff privileges to St. Barnabus Hospital, Bronx, N. Y., on

which he falsely answered "no" to the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?"

- (iv) On or about October 23, 1984, Respondent made written application for staff privileges to Boulevard Hospital, Long Island City, New York, on which he failed to answer the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?" and further failed to comply with an additional portion of the application which asked: "Has your license to practice medicine in any jurisdiction ever been suspended or revoked? If so, give full details on separate sheet."
- (v) On or about December 14, 1984, Respondent made written application for staff privileges to Pelham Bay General Hospital, Bronx, New York, on which he falsely answered "no" to the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?"
- (vi) On or about July 22, 1985, Respondent made written application for staff privileges to Catholic Medical Center, Jamaica, New York, on which he falsely answered "no" to the questions: "Has your license to practice any profession in any jurisdiction ever been suspended, revoked or is there any current pending action against you in this regard?" and "Has your membership status and/or clinical privileges ever been revoked, suspended, reduced or not renewed at any other hospital or institution, or is there any currently pending action against you in this regard?"

- (vii) On or about May 24, 1983 Respondent made application for a DEA registration using a New York State address on which he falsely answered "no" to the question: "Has the applicant ever been convicted of a felony in connection with controlled substances under State or Federal law, or ever surrendered or had a CSA registration revoked, suspended or denied?" when in fact, subsequent to the revocation of his license to practice medicine in the State of Florida, Respondent, on or about May 12, 1982, stipulated with the Drug Enforcement Administration to the voluntary surrender of his controlled substances priveleges.
- (viii) Respondent continued to falsely answer "no" to the same question as set forth above in paragraph 6 (vii) on each DEA renewal application he completed as follows:
 - (a) June, 1984
 - (b) June, 1985
 - (c) June, 1986
- (ix) Petitioner repeats and reiterates the allegations of the Second Specification set forth in paragraph 5(i), supra.

FOURTEENTH THROUGH TWENTY-FOURTH SPECIFICATION

7. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law § 6509(9) (McKinney 1985) and 8 N.Y.C.R.R. §29.1(b)(6) in that he willfully made and filed false reports as follows:

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

IN THE MATTER : AMENDED
OF : STATEMENT
CHANDRAKUMAR B. AGRAWAL, M.D. : OF
*****X CHARGES

The State Board for Professional Medical Conduct alleges as follows:

Petitioner repeats and reiterates each and every allegation set forth in paragraph "1" "2", and "3", and each and every allegation of the First through Twenty-Fourth specification set forth in paragraph 4 through 7 of the Statement of Charges dated September 15, 1986 and which is incorporated by reference as if fully set forth herein.

EXHIBIT "B"

TWENTY-FIFTH THROUGH TWENTY-SEVENTH SPECIFICATION

8. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law 6509(2) (McKinney 1985) in that he practiced the profession fraudulently as follows:

Respondent made written application for staff privileges to Union Hospital of the Bronx on three separate occasions, with application dated: August 12, 1982, January 5, 1984 and September 6, 1985, on each of which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

TWENTY-EIGHTH THROUGH THIRTIETH SPECIFICATION

9. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 N.Y.C.R.R. §29.1(b)(6) in that he willfully made and filed false reports as follows:

Petitioner repeats and reiterates the
allegations of the Twenty-Fifth through
Twenty-Seventh specification set forth in
paragraph 8, supra.

Dated: Albany, New York

Kathleen M. Tanner
Director
Office of Professional
Medical Conduct

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

IN THE MATTER

OF

CHANDRAKUMAR B. AGRAWAL, M.D.

REPORT OF THE
HEARING COMMITTEE

TO: The Honorable David Axelrod, M.D.
Commissioner of Health, State of New York

MARYCLAIRE SHERWIN (Chair), JOHN HAMILTON, M.D., and
ALEXANDER DE LA GARZA, M.D., duly designated members of the State
Board for Professional Medical Conduct, appointed by the Commissioner
of Health of the State of New York pursuant to Section 230 (1) of the
Public Health Law, served as the Hearing Committee in this matter
pursuant to Section 230 (10) (e) of the Public Health Law. JULIE
DENISON, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing
Committee submits this report.

SUMMARY OF PROCEEDINGS

Service of Notice of Hearing and Statement of Charges against Respondent: October 11, 1986

Answer to Statement of Charges: None

Pre-hearing conference: November 7, 1986

Dates and Places of Hearings: November 13, 1986
8 East 40th Street
New York, NY 10016

December 5, 1986
10 East 40th Street
New York, NY 10016

February 19, 1987
33 West 34th Street
New York, NY 10016

Adjournments: From January 19, 1987 to February 19, 1987 to Respondent's counsel, Mr. Vari, to complete ongoing felony case.

*Ruling on Respondent's Motion to submit Brief and Findings of Fact: February 9, 1987
Transcript No. 271, 303

Received Petitioner's Finding of Fact and Conclusions of Law: March 11, 1987

Received Respondent's Findings of Fact and Legal Arguments: April 16, 1987

Ruling Regarding Florida Disposition: February 19, 1987
Transcript No. 271

Final deliberations: March 27, 1987

*Attorneys were given leave to submit Briefs and/or Finding of Fact no later than 15 days after receipt of final transcripts. Respondent's attorneys received final transcripts on or about March 3, 1987.

*Department of Health appeared by:

Claudia A. Morales, Esq.
Associate Counsel

Respondent appeared by:

CERSCHIARA and VARI, ESQ.
Ferdinand L. Vari, Esq.
of Counsel

and

GAFFIN and MAYO, P.C.
Dudley Gaffin, Esq.
of Counsel

and

Margaret H. Mayo, Esq.
of Counsel
233 Broadway
New York, NY 10279

and

DAVID PETER ALAN, ESQ.
of counsel
81 Second Street
South Orange, NJ 07079

Hearing Committee absences:

None

Witnesses for Department of
Health:

None

Witnesses for Respondent:

Chandrakumer B. Agrawal,
M.D.

SUMMARY OF CHARGES

In an amended statement of charges, Respondent, CHANDRAKUMAR B. AGRAWAL, M.D., is charged with professional misconduct in that his license to practice medicine was duly revoked in the State of Florida in December 31, 1981, and thereafter Respondent fraudulently obtained a New York State Medical License, DEA Registrations and subsequent renewals by knowingly falsifying these applications to indicate that his license had, in fact, never been revoked or suspended in any other jurisdiction. Respondent is also charged with falsifying applications for staff privileges at Union Hospital, Misericordia Hospital Catholic Medical Center Hospital, Boulevard Hospital, St. Barnabus Hospital, and Pelham Bay General Hospital and as a result, of his misrepresentations or omissions of fact relating to his license revocation, Respondent fraudulently practiced medicine at those aforementioned hospitals.

FINDINGS OF FACT

1. The New York State Education Department issued Respondent, CHANDRAKUMAR B. AGRAWAL, M.D. a license number 153744 authorizing him to practice medicine in the State of New York. At the time of the last hearing, the Respondent, CHANDRAKUMAR B. AGRAWAL, M.D. was registered to practice medicine with the New York State Education Department for the period January 1, 1986 through December 31, 1988, at 139-41 35th Avenue, Flushing, New York. (Exh. 4).

2. In 1977, the State of Florida issued Respondent a license to practice medicine. (Exh. 3).

3. In 1981, the Florida Department of Professional Regulation, Board of Medical Examiners, filed a Complaint against Respondent and a Professional Disciplinary Hearing was held on September 24, 1981, before a duly appointed Hearing Officer. Among other things, the Hearing Officer found that between January 1978 and April 1978, the Respondent had issued prescriptions for large quantities (approximately 333 tablets) of Dilaudid, a controlled substance, to a patient known to be an addict, without medical justification and with the knowledge that the patient was selling the Dilaudid. Respondent was found to have shared in the proceeds of the sale in the amount of approximately \$400 to \$500. Respondent was also found to have prescribed large quantities of controlled substances of Dilaudid, Quaaludes, Preludin to persons with whom he did not have a

physician/patient relationship, and also in the names of third persons. These prescriptions were not issued for medical purposes but rather for abuse by the recipients and/or for illegal sale. The Florida Board found that as a matter of law all of the prescriptions were issued not in good faith. (Exh. 3)

4. On October 22, 1981, the Hearing Officer signed a Recommended Order imposing upon the Respondent a reprimand, a five-year probation under the supervision of another physician, a withdrawal of Respondent's authority to prescribe controlled substances by a restriction of his license for a five-year period, and a requirement that Respondent complete a course in Pharmacology prior to the removal of his license restriction. (T. 3)

5. The Florida Department of Professional Regulation filed exceptions to the Recommended Order and on December 5, 1981, the Board of Medical Examiners of the State of Florida reviewed the complete record of the hearing and in its Final Order incorporated by reference the Hearing Officer's Findings of Facts. However, the Board rejected the recommendations of the Hearing Officer on the basis that the recommendations failed to consider the seriousness of the offense as well as the harm to members of the public and that the mitigating factors noted by the Hearing Officer did not outweigh the serious consequences of Respondent's violation of the statutes. The Board revoked Respondent's Florida license on December 31, 1981. In a

decision filed October 20, 1982, the District Court of Appeals for the State of Florida, Fourth District, affirmed Per Curiam the decision of the Board of Medical Examiners. (Exh. 3)

6. On approximately February 23, 1982, as part of an Order staying the revocation pending an appeal to the Florida District Court of Appeals, the Florida Board of Medical Examiners restricted Respondent's prescribing practices to only non-controlled substances. (Exh. 3)

7. As a result of the Florida Order, on May 12, 1982, Respondent entered into a Voluntary Surrender of Controlled Substances Privilege Agreement with the Federal Drug and Enforcement Administration. The effect of the surrender, as stated in the Agreement, was that Respondent's DEA registration was terminated and revoked. (Exh. 11)

8. On or about August 1982, prior to his obtaining a New York State License, Respondent was employed as a house officer by Union Hospital of the Bronx after Respondent had made written application for privileges. On that application, Respondent failed to answer the question: "Have you ever been found guilty of unprofessional conduct professional misconduct or negligence". Respondent made three subsequent written applications to Union

Hospital; on or about September 1983, January 5, 1984 and September 6, 1985. On each of these applications, he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked". Respondent was granted privileges based on the 1982, 1983, and January 1984 applications. He did not receive privileges based on the application dated September 6, 1985 (sic) application (Exh. 6; T. 137-140)

9. On May 24, 1983, using a New York address, the Respondent applied for a DEA registration. On his application he answered "no" to the question: "Has the applicant ever been convicted of a felony in connection with controlled substances under State or Federal Law, or ever surrendered or had a CSA registration revoked, suspended or denied?" (Exh. 13) Respondent continued to falsely answer "no" to the same question on each subsequent DEA renewal application he completed in June 1984, June 1985 and June 1986. (Exh. 12), and received his registration for those years respectively. (Exh. 12 and 13)

10. On or about March 21, 1983, Respondent submitted a (2) written application to the New York State Education Department for a license to practice medicine. In that application, he answered "no" to the question: "Have you ever been found guilty of unprofessional

misconduct on negligence". Respondent was authorized to practice medicine in New York on April 1, 1983. (T. 119 and Exh. 4)

11. On or about June 23, 1983, Respondent made written application for staff privileges at Misericordia Hospital Medical Center. He answered "no" to the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked". Respondent was granted staff privileges and practiced at Misericordia. (T. 123-127; Exh. 5)

12. On or about November 15, 1983, Respondent made an application for staff privileges to St. Barnab~~us~~ Hospital, Bronx, New York, in which he answered "no" to the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked". Subsequent to the application, Respondent was granted staff privileges. (T. 140-141; Exh. 7)

13. On or about September 26, 1984, Respondent resigned from St. Barnabus Hospital in lieu of summary suspension based a patient's complaint. (Exh. 7)

14. On or about October 3, 1984, Respondent resigned from Union Hospital in lieu of a suspension based on the falsification of this applications. During his October 3, 1984, meeting with the hospital administrator of Union Hospital, it was clearly set forth to

the Respondent that the words "any jurisdiction" meant "all over".
(Exh.6)

15. On or about October 23, 1984, Respondent made written application to Boulevard Hospital, Long Island, New York, in which he failed to answer the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?" and further failed to comply with an additional portion of the application which asked: "Has your license to practice medicine in any jurisdiction ever been suspended or revoked? If so, give full details on separate sheet". Respondent was granted temporary privileges at Boulevard Hospital. (T. 142-144; Exh. 8)

16. On or about December 14, 1984, Respondent made written application for staff privileges to Pelham Bay General Hospital, Bronx, New York, in which he answered "no" to the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked". Respondent was not granted privileges. (T. 145-146; Exh. 9)

17. On or about March 5, 1985, Respondent's privileges were revoked at Misericordia Hospital because he had submitted false information in his application for medical staff privileges.

18. On or about July 22, 1985, Respondent made written application for staff privileges to Catholic Medical Center, Jamaica,

New York, in which application he failed to complete that section with respect to "Has your license to practice any profession in any jurisdiction ever been suspended or is there any currently pending action against you in this regard" and "Has your membership status and/or clinical privileges ever been revoked, suspended, reduced or not renewed in any other hospital or institution, or is there any currently pending action against you in this regard". In October, 1985, the Catholic Medical Center wrote to Respondent, advising him that he had failed to answer some of the questions on the application and that he had also failed to sign the application in the proper place. On October 8, 1985, Respondent completed the sections in question, answering "no" to the aforementioned questions and resubmitted the application to Catholic Medical Center. Respondent did not receive privileges from Catholic Medical Center. (T. 185-190; Exh. 10)

19. The Respondent's testimony regarding the charges of having fraudulently and knowingly submitted false information to the State of New York, DEA, and the aforementioned hospitals is unpersuasive and lacks credibility. It is unbelievable that Respondent did not understand the import and possible consequences of his falsifying questions with respect to whether his license had ever been revoked in any other jurisdiction. Even after Respondent resigned from Union Hospital in lieu of suspension for falsifying his application in this regard (Exh. 6) he blatantly continued to falsely

answer "no" to the same question or failed to answer that question on subsequent applications to Boulevard Hospital (T. 142-144 Exh. 8) and Pelham Bay Hospital (Exh. 9). Respondent also falsely answered "no" to that question on July 22, 1985 application to Catholic Medical Center, also falsifying that application further by falsely answer "no" to the question: "Has your membership status and clinical privileges ever been revoked, suspended, reduced or not renewed in any other hospital or institution or is there any currently pending action against you in this regard?" when in fact his privileges had been revoked at Misericordia Hospital on March 5, 1985.

CONCLUSIONS

1. Prior Revocation of License:

The Hearing Committee unanimously concludes that Respondent, CHANDRAKUMAR B. AGRAWAL, M.D., is guilty of professional misconduct within the meaning of N.Y. Educational Law No. 6509(5)(b) (McKinney 1985).

a. Respondent was found guilty of professional misconduct by a duly authorized professional disciplinary agency in the State of Florida and on December 31, 1981, his license to practice medicine in that state was thereby revoked based on conduct which, as committed in the State of New York, would constitute misconduct under Article 33 of the Public Health Law.

b. Between January, 1978 and April 1978, Respondent prescribed large quantities of controlled substances (Dilaudid, Quaaludes, and Preludin) to persons not his patients and without medical indication. In some cases, the prescriptions were dispensed for profit.

2. Obtaining A New York State License Fraudulently:

The Hearing Committee unanimously concludes that Respondent, CHANDRAKUMAR B. AGRAWAL, M.D., is guilty of professional

misconduct within the meaning of NY Educational Law No. 6509-1 (McKinney 1985), in that

a. Respondent falsified his application for a license to practice medicine in New York by falsely answering "no" to the question: "Have you ever been found guilty of unprofessional misconduct or negligence".

3. Practicing the Profession of Medicine Fraudulently:

The Hearing Committee unanimously concludes that Respondent, CHANDRAKUMAR B. AGRAWAL, M.D., is guilty of having practiced the profession of medicine fraudulently in that:

a. On or before March 21, 1983, Respondent filed an application for a license to practice medicine in the New York State with the State Education Department. On that application, he falsely answered "no" to the question: "Have you ever been found guilty of unprofessional conduct, professional misconduct or negligence?".

b. On or about June 23, 1983, Respondent made written application for staff privileges to Misericordia Hospital Medical Center on which he falsely answered "no" to the question: "Is your license to practice medicine or any professional branch of the Healing Act ever been suspended

or revoked?". Subsequent to that application, Respondent practiced at Misericordia Hospital Medical Center.

c. On or about September 1983, Respondent made written application for staff privileges to Union Hospital of the Bronx in which he falsely answered "no" to the questions: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?". Respondent made three (3) additional applications to the hospital, on or about (August 12, 1982,) January 5, 1984 and September 6, 1985, on each of which he again falsely answered "no" to the same question. Respondent was granted privileges based on the applications dated 1982, 1983, and June 1984. Respondent did not practice as a result of his application dated September 6, 1985.

d. On or about November 15, 1983, Respondent made written application for staff privileges to St. Barnabus Hospital, Bronx, New York on which he falsely answered "no" to the question: "Has your license medicine in any jurisdiction ever been limited, suspended or revoked?". Respondent was granted privileges at St. Barnabus.

e. On or about October 23, 1984, Respondent made written application for staff privileges to Boulevard Hospital, Long Island, New York in which he failed to answered the

question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?" and further failed to comply with an additional portion of the application which asked: "Has your license to practice medicine in any jurisdiction ever been suspended or revoked, if so, give full details on a separate sheet?". Respondent was granted temporarily privileges at Boulevard Hospital.

f. Respondent obtained a DEA Registration after falsifying applications in 1983, 1984, 1985 and 1986. On each application he answered "no" to the question: "Has the applicant ever been convicted of a felony in connection with a controlled substances under a State or Federal Law, or ever surrendered or had a CSA Registration revoked, suspended or denied?".

4. Willfully Making and Filing False Reports:

The Hearing Committee unanimously concludes that Respondent, CHANDRAKUMAR B. AGRAWAL, M.D., is guilty of professional misconduct within the meaning of N.Y. Educational Law 6509(9) (McKinney 1985) and 8 N.Y.C.R.R.1(b)(6) that he willfully made and filed false reports as follows:

a. Application for a license to practice medicine in the State of New York on or about March 21, 1983. The b.

Applications for DEA Registration for 1983, 1984, 1985 and 1986.

c. Applications for privileges at Union Hospital of the Bronx dated August 12, 1982, September 1983, January 5, 1984 and September 6, 1985.

d. Application for privileges at St. Barnabus Hospital, Bronx, New York dated November 15, 1983.

e. Application for privileges at Boulevard Hospital, Long Island City, New York, dated October 23, 1984.

f. Application for privileges at Pelham Bay General Hospital, Bronx, New York, dated December 14, 1984.

g. Application for privileges at Catholic Medical Center, Jamaica, New York dated July 22, 1985.

RECOMMENDATIONS

The Hearing Committee unanimously recommends that the license of Respondent, CHANDRAKUMAR B. AGRAWAL, M.D., to practice medicine in the State of New York be revoked. The Hearing Committee further unanimously recommends that due to substantial financial gain which Respondent wrongfully derived from his fraudulent practice and professional misconduct, a fine of \$27,000.00 be assessed in accordance with Section 6511.6 of the Education Law.

DATED: New York, New York
April 21, 1987

RESPECTFULLY SUBMITTED,

Maryclaire Sherwin 4/23/87

MARYCLAIRE SHERWIN, CHAIR

Alexander de la Garza, M.D.
John Hamilton, M.D.

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

-----X

IN THE MATTER :
OF : COMMISSIONER'S
CHANDRAKUMAR B. AGRAWAL, M.D. : RECOMMENDATION

-----X

TO: Board of Regents
New York State Education Department
State Education Department
Albany, New York 12234

A hearing in the above-entitled proceeding was held on November 7, November 13, December 5, 1986, and February 19, 1987. The Respondent, Chandrakumar B. Agrawal, M.D., appeared by Gaffin and Mayo, by Dudley Gaffin, Esq., Margaret H. Mayo, Esq., and David Peter Alan, Esq., of Counsel. The evidence in support of the charges against the Respondent was presented by Claudia A. Morales, Esq., of Counsel.

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

I hereby make the following recommendation to the Board of Regents:

EXHIBIT "D"

- A. The Findings of Fact and Conclusions of the Committee should be accepted in full;
- B. The Recommendation of the Committee should be accepted except that in lieu of a penalty of \$27,000 the calculation of which is not explained by the Committee, a penalty of \$12,000 should be imposed on Respondent. This is based on \$1,000 per falsified document; and
- C. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions and further adopting as its determination the Recommendation described above.

The entire record of the within proceeding is transmitted with this Recommendation.

DATED: Albany, New York

 1, 1987



DAVID AXELROD, M.D.
Commissioner of Health



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

CHANDRAKUMAR B. AGRAWAL, M.D.

No. 7783

who is currently licensed to practice as
a physician in the State of New York.

Report of the Regents Review Committee

CHANDRAKUMAR B. AGRAWAL, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

This disciplinary proceeding was properly commenced and on November 13 and December 5, 1986 and February 19, 1987 a hearing was held before a hearing committee of the State Board for Professional Medical Conduct which rendered a report of its findings, conclusions as to the question of guilt, and recommendation that respondent's license to practice as a physician in the State of New York be revoked and respondent be fined \$27,000.

The Commissioner of Health recommended to the Board of Regents that the findings, conclusions, and recommendation of the hearing committee be accepted in full except that the monetary

EXHIBIT "E"

CHANDRAKUMAR B. AGRAWAL, M.D. (7783)

portion of the penalty be modified to \$12,000 based upon a \$1,000 fine per falsified document.

On September 29, 1987 respondent appeared before us and was represented by respondent's attorney Ferdinand L. Vari, Esq., who presented oral argument on behalf of respondent. Claudia Morales Bloch, Esq., presented oral argument on behalf of the Department of Health.

We have considered the record transmitted by the Commissioner of Health and the briefs of the parties. Additionally, we asked that the parties submit written responses to certain obvious problems with the charges which had not been addressed by either side.

Based upon the record transferred by the Commissioner of Health and in view of the content of the submissions of the parties, it is our unanimous opinion that clarification is required in regard to 1) what specifications of the charges were served upon respondent 2) what and how many specifications were before the hearing committee, and 3) which findings, conclusions, and recommendations relate to each of those specifications.

Accordingly, we unanimously recommend to the Board of Regents that this matter be remanded to the administrative officer to prepare an amended report of the hearing committee specifically addressing the above three areas required to be clarified. In doing so, the administrative officer shall specifically identify and refer to each specification by number and not by paragraph or subparagraph.

CHANDRAKUMAR B. AGRAWAL, M.D. (7783)

Upon remand, the administrative officer, in complying with the foregoing, shall base the amended report upon the record, the papers which were not part of the record from April 8, 1988 to August 1, 1988, any consultation with the hearing committee the administrative officer may wish to seek, and such other proceedings the administrative officer wishes to follow in order to comply with the above.

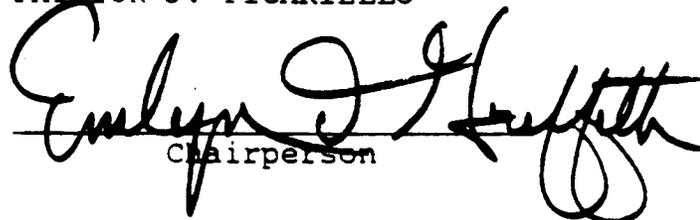
Accordingly, we unanimously recommend that the Board of Regents remand this matter to the administrative officer consistent with this report.

Respectfully submitted,

EMLYN I. GRIFFITH

JANE M. BOLIN

PATRICK J. PICARIELLO


Chairperson

Dated:

10/5/88

Approved October 21, 1988

No. 7783

Upon the report of the Regents Review Committee, the record herein, in the matter of CHANDRAKUMAR B. AGRAWAL, respondent, under Calendar No. 7783, and in accordance with the provisions of Title VIII of the Education Law, it was

Voted:* That the recommendation of the Regents Review Committee be accepted; that this matter be remanded to the administrative officer consistent with the report of the Regents Review Committee; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote.

EXHIBIT "F"

*Regent Lustig abstained



The University of the State of New York

IN THE MATTER

OF

CHANDRAKUMAR B. AGRAWAL
(Physician)

DUPLICATE
ORIGINAL ORDER
NO. 7783

Upon the report of the Regents Review Committee, under Calendar No. 7783, the record herein, the vote of the Board of Regents on October 21, 1988, and in accordance with the provisions of Title VIII of the Education Law, which report and vote are incorporated herein and made a part hereof, it is

ORDERED that the recommendation of the Regents Review Committee be accepted; and that this matter be remanded to the administrative officer consistent with the report of the Regents Review Committee.

IN WITNESS WHEREOF, I, Thomas Sobol,
Commissioner of Education of the State
of New York, for and on behalf of the
State Education Department and the Board
of Regents, do hereunto set my hand and
affix the seal of the State Education
Department, at the City of Albany, this
18th day of November, 1988.
Thomas Sobol
Commissioner of Education

EXHIBIT "F"

Ruling regarding Florida Disposition	February 19, 1987 Transcript No. 271
Final deliberations:	March 27, 1987
Department of Health appeared by:	Claudia A. Morales, Esq. Associate Counsel
Respondent appeared by:	CERSCHIARA & VARI, ESQ. Ferdinand L. Vari, Esq. of Counsel and Gaffin and Mayo, P.C. Dudley Gaffin, Esq. of Counsel and Margaret H. Mayo, Esq. of Counsel 233 Broadway New York, NY 10279 and DAVID PETER ALAN, ESQ. of Counsel 81 Second Street South Orange, NJ 07079
Hearing Committee absences:	None
Witness for Department of Health:	None.
Witness for Respondent:	Chandrakumar B. Agrawal, M.D.

II. POST-REMAND PROCEEDINGS

Additional Deliberations:	September 6, 1989
Amended Report Submitted:	November 17, 1989

SUMMARY OF CHARGES

In an amended statement of charges, Respondent, CHANDRAKUMAR B. AGRAWAL, M.D., was charged with professional misconduct in that his license to practice medicine was duly revoked in the State of Florida on December 31, 1981, and thereafter Respondent

SUMMARY OF PROCEEDINGS

I. PRE-REMAND PROCEEDINGS

Service of Notice of Hearing and Statement of Charges on Respondent:	October 11, 1986
Answer to Statement of Charges:	None
Prehearing conferences:	November 7, 1986
Dates and places of Hearings:	November 13, 1986 8 East 40th Street New York, NY 10016
	December 5, 1986 10 East 40th Street New York, NY 10016
	February 19, 1987 33 West 34th Street New York, NY 10016
Adjournments:	From January 19, 1987 to February 19, 1987 to Respondent's counsel, Mr. Vari, to complete ongoing felony case.
*Ruling on Respondent's Motion to submit Brief and Findings of Fact:	February 19, 1987 Transcript No. 271, 303
Received Petitioner's Finding of Fact and Conclusions of Law:	March 11, 1987
Received Respondent's Findings of Fact and Legal Arguments:	April 16, 1987

*Attorneys were given leave to submit Briefs and/or Findings of Fact no later than 15 days after receipt of final transcripts. Respondent's attorneys received final transcripts on or about March 3, 1987.

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

IN THE MATTER : AMENDED
OF : REPORT OF
CHANDRAKUMAR B. AGRAWAL, M.D. : THE HEARING
: COMMITTEE

TO: The Honorable David Axelrod, M.D.
Commissioner of Health, State of New York

MARYCLAIRE SHERWIN (Chair), JOHN HAMILTON, M.D. and
ALEXANDER DE LA GARZA, M.D., duly designated members of the
State Board for Professional Medical Conduct, appointed by the
Commissioner of Health of the State of New York pursuant to
Section 230(1) of the Public Health Law, served as the Hearing
Committee in this matter pursuant to Section 230(10)(e) of the
Public Health Law. JULIE DENISON, served as the Administrative
Officer for the Hearing Committee.

The Hearing Committee submitted its initial report to the
Commissioner of Health, dated April 21, 1987, based upon its
consideration of the entire record of the proceedings. By Order
#7783 of the Commissioner of Education, dated November 18, 1988,
the Board of Regents remanded the matter to the Administrative
Officer for clarification of certain issues. LARRY G. STORCH,
ESQ., served as a substitute Administrative Officer for this
remanded matter.

Upon further consideration of the matter by the Hearing
Committee, including consultation with the substitute
Administrative Officer, the Hearing Committee submits this
amended report.

EXHIBIT "G"

fraudulently obtained a New York State Medical License, DEA Registrations and subsequent renewals by knowingly falsifying these applications to indicate that his license had, in fact, never been revoked or suspended in any other jurisdiction. Respondent was also charged with falsifying applications for staff privileges at Union Hospital, Misericordia Hospital, Catholic Medical Center Hospital, Boulevard Hospital, St. Barnabus Hospital, and Pelham Bay General Hospital and, as a result of his misrepresentations or omissions of fact relating to his license revocation, Respondent allegedly practiced medicine fraudulently at those aforementioned hospitals.

By Order #7753 of the Commissioner of Education, the Board of Regents remanded this case for clarification of several issues relating to the charges. Specifically, the Regents requested clarification in regard to: 1) what specifications of charges were served upon Respondent; 2) what and how many specifications were before the hearing committee, and 3) which findings, conclusions and recommendations relate to each of those specifications. The Regents based this decision upon consideration of the record, as well as upon a series of correspondence from the parties, not originally part of the record, dated from April 8, 1988 through August 2, 1988. This additional correspondence is attached to this Amended Report as Attachment A and hereby incorporated into the record.

The following information is offered in response to the questions posed by the Board of Regents:

The original Statement of Charges, dated September 15, 1986 and served upon Respondent on October 11, 1986 (Petitioner's Exhibit #1) contained twenty-four (24) specifications. An Amended Statement of Charges, dated November 12, 1986, alleged six (6) additional specifications. (Petitioner's Exhibit #1A). These additional specifications were placed into the record by way of a motion to conform the Department's pleadings to the proof. Thus, a total of thirty (30) specifications were before the Hearing Committee. A series of clerical errors, combined with the numbering system used in drafting the Statements of Charges, apparently led to the confusion concerning the charges.

In accordance with the directive of the Board of Regents, the substitute Administrative Officer has specifically identified each specification by number, rather than by paragraph or sub-paragraph. This compilation of specifications is attached to this Amended Report as Attachment B. It is the opinion of the hearing committee that this attachment fairly reflects the specifications of charges considered by the committee.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses 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.

1. The New York State Education Department issued Respondent a license (number 153844) authorizing him to practice medicine in the State of New York. At the time of the last hearing, the Respondent was registered to practice medicine with the New York State Education Department for the period January 1, 1986 through December 31, 1988, at 139-41 35th Avenue, Flushing, New York. (Petitioner's Exhibit #4).

2. In 1977, the State of Florida issued Respondent a license to practice medicine. (Petitioner's Exhibit #3).

3. In 1981, the Florida Department of Professional Regulation, Board of Medical Examiners, filed a Complaint against Respondent and a Professional Disciplinary Hearing was held on September 14, 1981, before a duly appointed Hearing Officer. Among other things, the Hearing Officer found that between January, 1978 and April 1978, the Respondent had issued prescriptions for large quantities (approximately 333 tablets) of Dilaudid, a controlled substance, to a patient known to be an addict, without medical justification and with the knowledge that the patient was selling the Dilaudid. Respondent was found to have shared in the proceeds of the sale in the amount of approximately \$400 to \$500. Respondent was also found to have prescribed large quantities of controlled substances of Dilaudid, Quaaludes, and Preludin to persons with whom he did not have a physician/patient relationship, and also in the names of third persons. These prescriptions were not issued for medical purposes

but rather for abuse by the recipients and/or for illegal sale. The Florida Board found that as a matter of law all of the prescriptions were issued not in good faith. (Petitioner's Exhibit #3).

4. On October 11, 1981, the Hearing Officer signed a Recommended Order imposing upon the Respondent a reprimand, a five-year probation under the supervision of another physician, withdrawal of Respondent's authority to prescribe controlled substances by a restriction of his license for a five-year period, and a requirement that Respondent complete a course in Pharmacology prior to the removal of his license restriction. (Petitioner's Exhibit #3).

5. The Florida Department of Professional Regulations filed exceptions to the Recommended Order and on December 5, 1981, the Board of Medical Examiners of the State of Florida reviewed the complete record of the hearing, and in its Final Order incorporated by reference the Hearing Officer's Findings of Fact. However, the Board rejected the recommendations of the Hearing Officer on the basis that the recommendations failed to consider the seriousness of the offense as well as the harm to members of the public and that the mitigating factors noted by the Hearing Officer did not outweigh the serious consequences of Respondent's violation of the statutes. The Board revoked Respondent's Florida license on December 31, 1981. In a decision filed October 10, 1982, the District Court of Appeals for the State of Florida, Fourth District, affirmed Per Curium the decision of the Board of Medical Examiners. (Petitioner's Exhibit #3).

6. On approximately February 23, 1982, as part of an Order staying the revocation pending an appeal to the Florida District Court of Appeals, the Florida Board of Medical Examiners restricted Respondent's prescribing practice to only non-controlled substances. (Petitioner's Exhibit #3).

7. As a result of the Florida Order, on May 12, 1982, Respondent entered into a Voluntary Surrender of Controlled Substances Privilege Agreement with the Federal Drug Enforcement Administration (DEA). The effect of the surrender, as stated in the Agreement, was that Respondent's DEA registration was terminated and revoked. (Petitioner's Exhibit #11).

8. On or about August 1982, prior to his obtaining a New York State license, Respondent was employed as a house officer by Union Hospital of the Bronx after Respondent had made written application for privileges. On that application, Respondent failed to answer the question: "Have you ever been found guilty of unprofessional conduct professional misconduct or negligence". Respondent made three subsequent written applications to Union Hospital: on or about September, 1983, January 5, 1984 and September 6, 1985. On each of these application, he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked". Respondent was granted privileges based on the 1982, 1983 and January 1984 applications. He did not receive privileges based on the application dated September 6, 1985. (Petitioner's Exhibit #6; 132-140).

9. On May 24, 1983, using a New York address, the Respondent applied for a DEA registration. On his application he answered "no" to the question: "Has the applicant ever been convicted of a felony in connection with controlled substances under State or Federal Law, or ever surrendered or had a CSA registration revoke, suspended or denied?" (Petitioner's Exhibit #13). Respondent continued to falsely answer "no" to the same question on each subsequent DEA renewal application he completed in June, 1984, June, 1985 and June, 1986 and received his registration for those years, respectively. (Petitioner's Exhibits #12 and #13; 155-156).

10. On or about March 21, 1983, Respondent submitted a written application to the New York State Education Department for a license to practice medicine. In that application, he answered "no" to the question: "Have you ever been found guilty of unprofessional misconduct or negligence". Respondent was authorized to practice medicine in New York on April 1, 1983. (Petitioner's Exhibit #4; 119).

11. On or about June 23, 1983, Respondent made written application for staff privileges at Misericordia Hospital Medical Center. He answered "no" to the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked". Respondent was granted staff privileges and practiced at Misericordia. (Petitioner's Exhibit #5; 123-127).

12. On or about November 15, 1983, Respondent made an application for staff privileges to St. Barnabus Hospital, Bronx, New York, in which he answered "no" to the question: "Has your license to practice medicine in any jurisdiction every been

limited, suspended or revoked". Subsequent to the application, Respondent was granted staff privileges. (Petitioner's Exhibit #7; 140-141).

13. On or about September 26, 1984, Respondent resigned from St. Barnabus Hospital in lieu of summary suspension based on a patient's complaint. (Petitioner's Exhibit #7).

14. On or about October 3, 1984, Respondent resigned from Union Hospital in lieu of a suspension based on the falsification of his applications. During his October 3, 1984 meeting with the hospital administrator of Union Hospital, it was clearly set forth to the Respondent that the words "any jurisdiction" meant "all over". (Petitioner's Exhibit #6).

15. On or about October 23, 1984, Respondent made written application to Boulevard Hospital, Long Island, New York, in which he failed to answer the question: "Has your license to practice medicine in any jurisdiction every been limited, suspended or revoked?" and further failed to comply with an additional portion of the application which asked: "Have your privileges at any hospital ever been suspended, diminished, revoked or not renewed? If so, give full details on separate sheet". Respondent was granted temporary privileges at Boulevard Hospital. (Petitioner's Exhibit #8; 142-144).

16. On or about December 14, 1984, Respondent made written application for staff privileges to Pelham Bay General Hospital, Bronx, New York, in which he answered "no" to the question: "Has your license to practice medicine in any jurisdiction every been

limited, suspended or revoked". Respondent was not granted privileges. (Petitioner's Exhibit #9; 145-146).

17. On or about March 5, 1985, Respondent's privileges were revoked at Misericordia Hospital because he had submitted false information in his application for medical staff privileges. (Petitioner's Exhibit #5).

18. On or about July 22, 1985, Respondent made written application for staff privileges to Catholic Medical Center, Jamaica, New York in which application he failed to complete that section which inquired: "Has your license to practice any profession in any jurisdiction ever been suspended or is there any currently pending action against you in this regard" and "Has your membership status and/or clinical privileges ever been revoked, suspended, reduced or not renewed in any other hospital or institution, or is there any currently pending action against you in this regard". In October, 1985, the Catholic Medical Center wrote to Respondent, advising him that he had failed to answer some of the questions on the application and that he had also failed to sign the application in the proper place. On October 8, 1985, Respondent completed the sections in question, answering "no" to the aforementioned questions and resubmitted the application to Catholic Medical Center. Respondent did not receive privileges from Catholic Medical Center. (Petitioner's Exhibit #10; 185-190).

ATTACHMENT B

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(5)(b) (McKinney 1985) in that he has been found guilty of professional misconduct by the duly authorized professional disciplinary agency of the State of Florida and on December 31, 1981, his license to practice medicine in the State of Florida was thereby revoked based on conduct which if committed in New York State would constitute misconduct under the laws of New York State as follows:

- Between January, 1978 and April, 1978, Respondent prescribed approximately 333 Dilaudid tablets to a known addict, without medical indication, who informed Respondent that she was selling some of the Dilaudid tablets. Respondent was found to have shared in the proceeds of said sales in the amount of \$450.00 to \$500.00.
- Between January, 1978 and April, 1978 Respondent prescribed large quantities of controlled substances (Dilaudid, Quaaludes, and Preludin) to persons not his patients and without medical indication. In some cases, the prescriptions were dispensed for profit.

SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(1) (McKinney 1985) in

that he obtained his license to practice medicine in New York State fraudulently as follows:

- On or about March 21, 1983, Respondent filed an application for a license to practice medicine in New York State with the State Education Department. On that application, he falsely answered "no" to the question "Have you ever been found guilty of unprofessional conduct, professional misconduct or negligence?"

THIRD SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- On or about June 23, 1983, Respondent made written application for staff privileges to Misericordia Hospital Medical Center on which he falsely answered "no" to the question: "Has your license to practice medicine or any professional branch of the healing arts ever been suspended or revoked?"

FOURTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- On or about September, 1983, Respondent made written application for staff privileges to Union Hospital

of the Bronx on which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

FIFTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- On or about November 15, 1983, Respondent made written application for staff privileges to St. Barnabas Hospital, Bronx, N.Y., on which he falsely answered "no" to the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?"

SIXTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- On or about October 23, 1984, Respondent made written application for staff privileges to Boulevard Hospital, Long Island City, New York, on which he failed to answer the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?" and further failed to comply with an additional portion

of the application which asked: "Has your license to practice medicine in any jurisdiction ever been suspended or revoked? If so, give full details on separate sheet."

SEVENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- On or about December 14, 1984, Respondent made written application for staff privileges to Pelham Bay General Hospital, Bronx, New York, on which he falsely answered "no" to the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?"

EIGHTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- On or about July 22, 1985, Respondent made written application for staff privileges to Catholic Medical Center, Jamaica, New York, on which he falsely answered "no" to the questions: "Has your license to practice any profession in any jurisdiction ever been suspended, revoked or is there any current pending action against you in this regard?" and

CONCLUSIONS

The following conclusions were made pursuant to the Findings of Fact herein. All conclusions resulted from a unanimous vote of the Hearing Committee unless otherwise noted. Numbers in parentheses refer to the specific Findings of Fact which support each conclusion. All references to specifications are to the compilation prepared by the substitute Administrative Officer and contained in Attachment B herein.

The Hearing Committee concludes that the following specifications should be SUSTAINED:

First Specification: (2,3,4,5,6);

Second Specification: (5,10);

Third Specification: (5,11);

Fourth Specification: (5,8);

Fifth Specification: (5,12);

Sixth Specification: (5,15,);

Ninth Specification: (7);

Tenth Specification: (7);

Eleventh Specification: (7);

Twelfth Specification: (7);

Thirteenth Specification: (1,5,8,10,14);

Fourteenth Specification: (1,5,8,10,14);

Fifteenth Specification: (5,11);

Sixteenth Specification: (5,8);

Seventeenth Specification: (5,12)'

Eighteenth Specification: (5,15,19);

Nineteenth Specification: (5,16);
Twentieth Specification: (5,18);
Twenty-first Specification: (7);
Twenty-second Specification: (7);
Twenty-third Specification: (7);
Twenty-fourth Specification: (7);
Twenty-sixth Specification: (5,8);
Twenty-ninth Specification: (5,8) and
Thirtieth Specification: (5,8).

DISCUSSION

The documentary evidence presented by the Department provided overwhelming proof of the validity of these charges. Respondent's testimony regarding the fraudulent and knowing submission of false information to the New York State Education Department, United States Drug Enforcement Administration, and the above-referenced hospitals was totally unpersuasive and lacking in credibility. It is unbelievable that Respondent did not understand the impact and possible consequences of falsifying questions with respect to whether his license had ever been revoked in any other jurisdiction. Even after Respondent resigned from Union Hospital in lieu of suspension for falsifying his application in this regard, he blatantly continued to give false or incomplete answers to similar questions on subsequent applications at other hospitals.

The Hearing Committee further concludes that the following specifications should NOT BE SUSTAINED:

Seventh Specification: (5,16);

Eighth Specification: (5,18);

Twenty-fifth Specification: (8);

Twenty-seventh Specification: (5,8) and

Twenty-eighth Specification: (8).

DISCUSSION

The twenty-fifth and twenty-eighth specifications related to Respondent's August 12, 1982 application for staff privileges at Union Hospital of the Bronx. Both specifications alleged that Respondent falsely answered the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?" However, the record demonstrates that Respondent failed to answer the question, rather than give a false answer. Therefore, the Hearing Committee concluded that Petitioner did not prove these charges.

The seventh, eighth and twenty-seventh specifications alleged that Respondent practiced the profession of medicine fraudulently in that he falsely answered questions on written applications for staff privileges at Pelham Bay General Hospital (December 14, 1984), Catholic Medical Center (July 22, 1985), and Union Hospital of the Bronx (September 6, 1985), respectively. However, the

record demonstrates that Respondent did not receive privileges at these hospitals based upon the applications cited. Since Respondent did not actually receive privileges at these three hospitals in reliance upon the false statements contained in these applications, the Hearing Committee concluded that Respondent's conduct in that regard did not constitute the fraudulent practice of medicine. The Committee further concluded that Petitioner did not prove these charges.

RECOMMENDATION

The Hearing Committee unanimously recommends the following:

1. The following specifications against Respondent should be SUSTAINED:

- 1 through 6; 9 through 24; 26, 29 and 30;

2. The following specifications against Respondent should be DISMISSED:

- 7, 8; 25; 27 and 28;

3. The license of Respondent, CHANDRAKUMAR B. AGRAWAL, M.D., to practice medicine in the State of New York should be REVOKED, and

4. Due to the substantial financial gain which Respondent wrongfully derived from his fraudulent practice and professional misconduct, a civil penalty of \$25,000.00 should be assessed in accordance with Section 6511(6) of the Education Law.

DATED: Malone, New York

12/14/ , 1989

Respectfully submitted,

Maryclaire Sherwin

Maryclaire Sherwin, Chair
Alexander de la Garza, M.D.
John Hamilton, M.D.

"Has your membership status and/or clinical privileges ever been revoked, suspended, reduced or not renewed at any other hospital or institution, or is there any currently pending action against you in this regard?"

NINTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- On or about May 24, 1983 Respondent made application for a DEA registration using a New York State address on which he falsely answered "no" to the question: "Has the applicant ever been convicted of a felony in connection with controlled substances under State or Federal law, or ever surrendered or had a CSA registration revoked, suspended or denied?" when in fact, subsequent to the revocation of his license to practice medicine in the State of Florida, Respondent, on or about May 12, 1982, stipulated with the Drug Enforcement Administration to the voluntary surrender of his controlled substances privileges.

TENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in

that he has practiced the profession of medicine fraudulently as follows:

- Respondent continued to falsely answer "no" to the same question as set forth above in Specification Nine on each DEA renewal application he completed as follows: June, 1984.

ELEVENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- Respondent continued to falsely answer "no" to the same question as set forth above in Specification Nine on each DEA renewal application he completed as follows: June, 1985.

TWELFTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he has practiced the profession of medicine fraudulently as follows:

- Respondent continued to falsely answer "no" to the same question as set forth above in Specification Nine on each DEA renewal application he completed as follows: June, 1986.

THIRTEENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in

that he has practiced the profession of medicine fraudulently as follows:

- On or about March 21, 1983, Respondent filed an application for a license to practice medicine in New York State with the State Education Department. On that application, he falsely answered "no" to the question "Have you ever been found guilty of unprofessional conduct, professional misconduct or negligence?"

FOURTEENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- On or about March 21, 1983, Respondent filed an application for a license to practice medicine in New York State with the State Education Department. On that application, he falsely answered "no" to the question "Have you ever been found guilty of unprofessional conduct, professional misconduct or negligence?"

FIFTEENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- On or about June 23, 1983, Respondent made written application for staff privileges to Misericordia Hospital Medical Center on which he falsely answered "no" to the question: "Has your license to practice medicine or any professional branch of the healing arts ever been suspended or revoked?"

SIXTEENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- On or about September, 1983, Respondent made written application for staff privileges to Union Hospital of the Bronx on which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

SEVENTEENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- On or about November 15, 1983, Respondent made written application for staff privileges to St. Barnabus Hospital, Bronx, N.Y., on which he falsely answered "no" to the question: "Has your license

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

EIGHTEENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- On or about October 23, 1984, Respondent made written application for staff privileges to Boulevard Hospital, Long Island City, New York, on which he failed to answer the question: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?" and further failed to comply with an additional portion of the application which asked: "Has your license to practice medicine in any jurisdiction ever been suspended or revoked? If so, give full details on separate sheet."

NINETEENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- On or about December 14, 1984, Respondent made written application for staff privileges to Pelham Bay General Hospital, Bronx, New York, on which he falsely answered "no" to the question: "Has your

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

TWENTIETH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- On or about July 22, 1985, Respondent made written application for staff privileges to Catholic Medical Center, Jamaica, New York, on which he falsely answered "no" to the questions: "Has your license to practice any profession in any jurisdiction ever been suspended, revoked or is there any current pending action against you in this regard?" and "Has your membership status and/or clinical privileges ever been revoked, suspended, reduced or not renewed at any other hospital or institution, or is there any currently pending action against you in this regard?"

TWENTY-FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- On or about May 24, 1983 Respondent made application for a DEA registration using a New York State address on which he falsely answered "no" to the

question: "Has the applicant ever been convicted of a felony in connection with controlled substances under State or Federal law, or ever surrendered or had a CSA registration revoked, suspended or denied?" when in fact, subsequent to the revocation of his license to practice medicine in the State of Florida, Respondent, on or about May 12, 1982, stipulated with the Drug Enforcement Administration to the voluntary surrender of his controlled substances privileges.

TWENTY-SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- Respondent continued to falsely answer "no" to the same question as set forth above in Specification 21 on each DEA renewal application he completed as follows: June, 1984.

TWENTY-THIRD SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- Respondent continued to falsely answer "no" to the same question as set forth above in Specification

21 on each DEA renewal application he completed as follows: June, 1985.

TWENTY-FOURTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- Respondent continued to falsely answer "no" to the same question as set forth above in Specification 21 on each DEA renewal application he completed as follows: June, 1986.

TWENTY-FIFTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he practiced the profession fraudulently as follows:

- Respondent made written application for staff privileges to Union Hospital of the Bronx with an application dated August 12, 1982 on which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

TWENTY-SIXTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he practiced the profession fraudulently as follows:

- Respondent made written application for staff privileges to Union Hospital of the Bronx with an

application dated January 5, 1984, on which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

TWENTY-SEVENTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he practiced the profession fraudulently as follows:

- Respondent made written application for staff privileges to Union Hospital of the Bronx with an application dated September 6, 1985, on which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

TWENTY-EIGHTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- Respondent made written application for staff privileges to Union Hospital of the Bronx with an application dated August 12, 1982, which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

TWENTY-NINTH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- Respondent made written application for staff privileges to Union Hospital of the Bronx with an application dated January 5, 1984, on which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

THIRTIETH SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(6) in that he willfully made and filed false reports as follows:

- Respondent made written application for staff privileges to Union Hospital of the Bronx with an application dated September 6, 1985, on which he falsely answered "no" to the question: "Has your license to practice in any jurisdiction ever been limited, suspended or revoked?"

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

-----X

IN THE MATTER :

OF :

CHANDRAKUMAR B. AGRAWAL, M.D. :

-----X

COMMISSIONER'S

RECOMMENDATION

TO: Board of Regents
New York State Education Department
State Education Building
Albany, New York

A hearing in the above-entitled proceeding was held on November 13, 1986, December 5, 1986, and February 19, 1987. Respondent, Chandrakumar B. Agrawal, M.D., appeared by Ferdinand L. Vari, Esq., Dudley Gaffin, Esq., Margaret Mayo, Esq. and David Peter Alan, Esq. The evidence in support of the charges against the Respondent was presented by Claudia A. Morales, 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 recommendation to the Board of Regents:

- A. The Findings of Fact and Conclusions of the Committee should be accepted in full;
- B. The Recommendation of the Committee should be accepted; and
- C. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions and further adopting as its determination the Recommendation described above.

The entire record of the within proceeding is transmitted with this Recommendation.

DATED, Albany, New York
March 30 1989


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

**ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK**

CHANDRAKUMAR B. AGRAWAL

CALENDAR NOS. 10884/7783



The University of the State of New York

IN THE MATTER

OF

CHANDRAKUMAR B. AGRAWAL
(Physician)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NOS. 10884/7783**

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar Nos. 10884/7783, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (July 27, 1990): That, in the matter of CHANDRAKUMAR B. AGRAWAL, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The findings of fact of the hearing committee and the recommendation of the Commissioner of Health as to those findings of fact be accepted, except finding of fact 13 not be accepted;
2. The conclusions of the hearing committee and Commissioner of Health be modified;
3. Respondent is guilty, by a preponderance of the evidence, of the second through fifth, seventh through twelfth, fifteenth through seventeenth, and nineteenth through twenty-first specifications and not guilty of the remaining specifications; and
4. The measure of discipline recommended by the hearing committee and Commissioner of Health be modified and respondent's license to practice as a physician in the State of New York be revoked upon each specification of

CHANDRAKUMAR B. AGRAWAL (10884/7783)

the charges of which respondent was found guilty, as aforesaid. That respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein, but said application shall not be granted automatically; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol, Commissioner of Education of the State of New York, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this 6th day of

August, 1990.

Thomas Sobol

Commissioner of Education