



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

Paula Wilson  
Executive Deputy Commissioner

February 11, 1994

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Roy Nemerson, Esq.  
Deputy Counsel  
NYS Department of Health  
5 Penn Plaza - 6th Floor  
New York, New York 10001

Robert S. Asher, Esq.  
295 Madison Avenue, Suite 700  
New York, New York 10017

Dominick A. Ricci, M.D.  
P.O. Box 3135  
Teaneck, New Jersey 07666

Dominick A. Ricci, M.D.  
343 West Drive  
Copaigue, New York 11726

**RE: In the Matter of Dominick A. Ricci, M.D.**

Dear Mr. Nemerson, Mr. Asher and Dr. Ricci:

Enclosed please find the Determination and Order (No. BPMC 94-16) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct  
New York State Department of Health  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must than be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he determination of a committee on professional medical conduct may be reviewed by the administrative review board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Corning Tower - Room 2503  
Empire State Plaza  
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Very truly yours,

*Tyrone T. Butler / mmn.*

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:mmn  
Enclosure

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

-----X  
IN THE MATTER : DETERMINATION  
OF : AND  
DOMINICK A. RICCI, M.D. : ORDER  
-----X

No. BPMC 94-16

A Commissioner's Order and Notice of Hearing, dated November 16, 1993, and a Statement of Charges, dated November 17, 1993, were served upon the Respondent, Dominick A. Ricci, M.D. **ANN SHAMBERGER (Chair), STEPHEN A. GETTINGER, M.D., and BENJAMIN WAINFELD, M.D.,** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. A hearing was held on December 13, 1993. The Department of Health appeared by Roy Nemerson, Esq., Deputy Counsel. The Respondent appeared by Robert S. Asher, Esq. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

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

**STATEMENT OF CASE**

By an Order dated November 16, 1993, the Commissioner of Health summarily suspended the medical license of the Respondent,

Dominick A. Ricci, M.D., upon a finding that his continued practice of medicine would constitute an imminent danger to the health of the people of this state. More specifically, the accompanying Statement of Charges alleged one specification of professional misconduct, pursuant to New York Education Law Section 6530(9)(d) in that Respondent had his license to practice medicine in California suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency in that state. A second specification of professional misconduct was withdrawn by the Department at a pre-hearing conference, held on December 7, 1993.

Following a hearing on this matter, held on December 13, 1993, the Hearing Committee issued its report on imminent danger, on the record. The Hearing Committee recommended that the summary suspension of Respondent's license be maintained pending the ultimate resolution of the case. By an Interim Order dated December 22, 1993, the Commissioner ordered that the summary suspension be continued.

In cases where a licensee is charged solely with a violation of Education Law Section 6530(9)(d), a licensee is charged with misconduct based upon the fact that the licensee has had his/her license to practice medicine suspended or has had other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state where the conduct resulting in the suspension or

other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State. The scope of such a case is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

A copy of the Commissioner's Order and Notice of Hearing and Statement of Charges is attached to this Determination and Order in Appendix I.

#### **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. Dominick A. Ricci, M.D. (hereinafter "Respondent"), was authorized to practice medicine in New York State on October 24, 1980 by the issuance of license number 144119 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994. (Pet. Ex. #2).

2. The Medical Board of California (hereinafter "California Board") instituted disciplinary action against Respondent by the issuance of an Accusation, dated March 27, 1992.

An Interim Order summarily suspending the California medical license of Respondent was issued on March 27, 1992 by an Administrative Law Judge of the California Office of Administrative Hearings. (Pet. Ex. #4; Pet. Ex. #5).

3 Pursuant to California law, a preliminary hearing was held before Administrative Law Judge Stephen E. Hjelt. The purpose of the hearing was to determine whether or not the interim order should remain in effect, pending a full trial on the merits. (Pet. Ex. #5).

4. Judge Hjelt made the following findings concerning eight patients whose medical care is the subject matter of the California proceedings:

a. Patient K.G.: In the context of her medical presentation respondent performed a rectal examination on Patient K.G. on January 27, 1992, in a manner which constitutes gross negligence and incompetence. The length of time the rectal exam took, the number of penetrations and positions were far in excess of what was medically reasonable and indicated. Respondent touched her genital area in the course of this exam. This was not a brief and incidental touching. (Pet. Ex. #5, p. 10).

b. Patient J.C.: In the context of her medical presentation respondent performed a rectal examination on J.C. on October 22, 1991 in a manner that constituted gross negligence and incompetence. The length of time the exam took and the number of

penetrations was far in excess of what was medically reasonable and indicated. (Pet. Ex. #5, p. 10).

c. Patient S.N.: In the context of her medical presentation respondent performed a rectal exam on S.N. on October 14, 1991 in a manner that constituted gross negligence and incompetence. The length of time of the rectal exam, the multiple positions and penetrations were far in excess of what was medically reasonable and indicated. During this exam respondent touched her vaginal area and penetrated her vagina without medical indication. This was not a brief and incidental touching. (Pet. Ex. #5, p. 10).

d. Patient V.R.: In the context of her medical presentation respondent performed a rectal exam on V.R. on September 25, 1991 and October 28, 1991 in a manner that constitutes gross negligence and incompetence. The length of time these 2 exams took was far in excess of what was medically reasonable and indicated. During the exams of September 25, 1991 and October 28, 1991 respondent touched her vaginal and clitoral area without medical indication. This was not a brief, incidental touching. Respondent performed these two rectal exams in several different positions with multiple penetrations. Although there was more urgency to get stool in this case because of the presenting complaint of rectal bleeding, respondent's actions in placing V.R. into multiple positions with multiple penetrations was grossly negligent and incompetent. (Pet. Ex. #5, pp. 10-11).

e. Patient J.P.: In the context of her medical presentation, respondent performed a rectal exam on J.P. on September 13, 1991 in a manner that constituted gross negligence and incompetence. The length of time this exam took was far in excess of what was medically reasonable and indicated. (Pet. Ex. #5, p. 11).

f. Patient M.E.: In the context of her medical presentation respondent performed a rectal exam on M.E. on July 15, 1991 in a manner that constitutes gross negligence. The length of time this exam took was far in excess of what was medically reasonable and indicated. During this exam respondent's finger entered M.E.'s vagina without medical reason. This was not a brief incidental touching. This was grossly negligent and incompetent. (Pet. Ex. #5, p. 11).

g. Patient S.R.: In the context of her medical presentation respondent performed a rectal exam on December 17, 1990 in a manner that constituted gross negligence and incompetence. The length of time the exam took was far in excess of what was medically reasonable and indicated. The number of different positions and penetrations was clearly excessive. (Pet. Ex. #5, p. 11).

h. Patient L.H.: In the context of her medical presentation respondent performed a rectal exam on March 13, 1990 in a manner that constitutes gross negligence and incompetence. The length of time the exam took was far in excess of what was

medically reasonable and indicated. The number of different penetrations was clearly excessive. (Pet. Ex. #5, p. 11).

5. Judge Hjelt concluded that Respondent "...became a danger to his patients by developing an obsessive approach to getting stool samples to check for occult blood. He humiliated and embarrassed and traumatized them by performing rectal exams that seemed to denigrate and demean. On the basis of the entire record...this court cannot say that Respondent violated Business and Professions Code Section 726. This court can say that he abused his patients by a form of insensitivity that left them feeling horribly mistreated. Respondent at present continues to pose a serious risk of harm to the public health, safety and welfare." Business and Professions Code Section 726 prohibits sexual abuse or misconduct by a physician. Judge Hjelt granted the Petition for an Interim Order of Suspension on July 6, 1992. (Pet. Ex.. #5, p. 18).

6. Pursuant to California law, a *de novo* hearing on the merits has been scheduled to commence on March 1, 1994. (Resp. Ex. A).

#### CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. The Hearing Committee concluded, by a 2 - 1 vote, to sustain the First Specification. The rationale of

the majority position is set forth below. The dissenting opinion is also set forth below.

**The Majority Opinion**

The majority of the Hearing Committee concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent has had his license to practice medicine in the State of California suspended after a disciplinary action was instituted by the California Board. The majority also accepted the findings of the California Administrative Law Judge as findings of conduct on the part of Respondent.

The California Administrative Law Judge found that Respondent performed grossly negligent, incompetent and abusive rectal examinations on eight female patients. Several of these patients were also subjected to medically unwarranted vaginal touching and/or penetration by Respondent, that was neither brief nor incidental.

The majority of the Hearing Committee concluded that Respondent's conduct in this regard, if committed in New York State, would constitute professional misconduct as defined in Education Law Section 6530 including, *inter alia*, subsections (3) [negligence on more than one occasion], (4) [gross negligence], (5) [incompetence on more than one occasion], (20) [conduct in the practice of medicine which evidences moral unfitness to practice medicine], and (31) [willfully abusing a patient either physically

or verbally]. As a result, the majority of the Hearing Committee voted to sustain the First Specification.

**The Dissenting Opinion**

The dissenting member of the Hearing Committee believes that it is premature to take action against Respondent's New York medical license based on the current status of the California disciplinary proceedings. Respondent's California medical license was summarily suspended by the California board. A hearing was held solely to determine whether or not to continue the summary suspension pending a full disciplinary hearing. The standard of proof employed by the California Administrative Law Judge was the preponderance of the evidence standard. This is lower than the clear and convincing evidence needed to take final action in California. (See, Pet. Ex. #5, pp. 13-14). The dissent believes that it is a fundamental denial of due process to take final action on Respondent's New York license based upon findings of a California Administrative Law Judge which the California Board is prohibited from relying upon to impose discipline on Respondent.

Further, the dissent believes that the requirements of Education Law Section 6530(9)(d) have not been satisfied. The statute defines professional misconduct, in pertinent part, as: "Having his or her license to practice medicine ... suspended or having other disciplinary action taken, ... after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, **where the conduct resulting**

in the ... suspension would, if committed in New York State, constitute professional misconduct under the laws of New York State. (Emphasis added).

Irrespective of the length of the preliminary hearing in California (25 days), there has not been an adjudication of Respondent's conduct. The California Administrative Law Judge explicitly noted that his hearing merely "involved a request for interim relief and was not a trial on the merits ...." (Pet. Ex. #5, p. 14, emphasis added). The preliminary nature of his findings are clearly apparent upon a review of the documentation.

The Accusation filed by the California Board contains approximately twenty-one pages of detailed factual allegations concerning Respondent's conduct towards ten female patients. However, the California Administrative Law Judge's decision contains only brief, sketchy findings (one paragraph per patient, each comprising three to four conclusory sentences). No citations to the underlying record were made. The sketchiness of the findings is perhaps understandable, given the preliminary nature of the proceedings. However, they are simply inadequate to make dispositive findings regarding Respondent's conduct toward the patients.

In addition, there are serious ambiguities in the Administrative Law Judge's decision. The Judge repeatedly found that Respondent engaged in vaginal touching which was neither "brief nor incidental". Nevertheless, he also specifically ruled

that Respondent did not sexually abuse or molest these patients. Given these deficiencies in the California decision, it is apparent that Respondent's conduct has not yet been adjudicated. In the absence of such an adjudication, the preliminary decision of the California Administrative Law Judge should not be given preclusive effect. (See, e.g., Sood v. Commissioner of Education, 137 A.D.2d 918 (3rd Dept., 1988)). Therefore, the dissenting member of the Hearing Committee concluded that the Department has not proved that Respondent engaged in conduct which would constitute misconduct, if committed in New York State. As a result, the specification of misconduct should not be sustained and the case should be dismissed.

In reaching this conclusion, the dissent takes no position on the merits of the underlying California disciplinary proceeding. It is the opinion of the dissenting member of the Hearing Committee that, in the event that the California Board ultimately determines that Respondent was guilty of professional misconduct, such conduct would also constitute professional misconduct under the laws of New York. Consequently, the Department should thereafter re-file charges pursuant to Education Law Section 6530(9)(b).

#### **DETERMINATION AS TO PENALTY**

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, determined, by a 2 - 1 vote that Respondent's license to practice medicine in New York State

should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension (for a specified period of time) and/or probation, censure and reprimand, and the imposition of monetary penalties.

The majority of the Hearing Committee believes that the nature of Respondent's conduct demonstrates that he poses an unacceptable risk to his female patients. The majority believes that a period of suspension with re-training and monitoring would not provide adequate protection to the public. Similarly, the majority does not believe that the public can adequately be protected by a simple requirement that a chaperone be present whenever Respondent examines a female patient. Under the totality of the circumstances, the majority determined that revocation is the only appropriate sanction.

**ORDER**

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First Specification of professional misconduct contained in the Statement of Charges, dated November 17, 1993 (Petitioner's Exhibit #1) is **SUSTAINED**;

2. Respondent's license to practice medicine in New York be and is hereby **REVOKED**.

DATED: Albany, New York  
*January 10*, 1994

*Ann Shamberger*  
-----  
**ANN SHAMBERGER (Chair)**

STEPHEN A. GETTINGER, M.D.  
BENJAMIN WAINFELD, M.D.

TO: Roy Nemerson, Esq.  
Deputy Counsel  
New York State Department of Health  
5 Penn Plaza - 6th Floor  
New York, New York 10001

Robert S. Asher, Esq.  
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New York, New York 10017

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P.O. Box 3135  
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Dominick A. Ricci, M.D.  
343 West Drive  
Copaigue, New York 11726

Dominick A. Ricci, M.D.  
14750 Caminito Via Campestre  
Del Mar, California 92014

**APPENDIX I**

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

-----:  
IN THE MATTER  
OF  
DOMINICK A. RICCI, M.D.

: COMMISSIONER'S  
: ORDER AND  
: NOTICE OF HEARING

-----:  
TO: DOMINICK A. RICCI, M.D.  
14750 Caminito Via Campestre  
Del Mar, CA 92014  
-----  
343 West Drive  
Copiague, NY 11726

PLAINTIFF'S  
DEFENDANT'S  
COMPANY'S  
DEPARTMENT'S  
PETITIONER'S for identification  
RESPONDENT'S in evidence  
DATE 12/17/93 REPORTER NM  
STERLING REPORTING SERVICE, INC.

**EXHIBIT 1**

The undersigned, Mark R. Chassin, M.D., Commissioner of Health of the State of New York, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by DOMINICK A. RICCI, M.D., the Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law Section 230(12) (McKinney Supp. 1993), that effective immediately DOMINICK A. RICCI, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless

modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law Section 230(12) (McKinney Supp. 1993).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993), and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the <sup>1<sup>ST</sup></sup> day of December, 1993 at 10:00 a.m. at 5 Penn Plaza, 6th Floor Hearing Room, New York, NY 10001 and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to Section 301(5) of the

State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Empire State Plaza, Corning Tower Building, 25th Floor, Albany, New York 12237-0026 and by telephone (518-473-1385), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A  
DETERMINATION THAT YOUR LICENSE TO PRACTICE  
MEDICINE IN NEW YORK STATE BE REVOKED OR  
SUSPENDED, AND/OR THAT YOU BE FINED OR  
SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW  
YORK PUBLIC HEALTH LAW SECTION 230-a  
(McKinney Supp. 1993). YOU ARE URGED TO  
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS  
MATTER.

DATED: Albany, New York  
*November 16, 19*



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MARK R. CHASSIN, M.D.  
Commissioner of Health

Inquiries should be directed to:  
Roy Nemerson  
Deputy Counsel, B.P.M.C.  
N.Y.S. Department of Health  
5 Penn Plaza, Rm. 601  
New York, NY 10001

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
DOMINICK A. RICCI, M.D. : CHARGES

-----X

DOMINICK A. RICCI, M.D., the Respondent, was authorized to practice medicine in New York State on October 24, 1980, by the issuance of license number 144119 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994.

FACTUAL ALLEGATIONS

- A. Respondent's license to practice medicine in the state of California was suspended by the issuance of an order of the Office of Administrative Hearings of State of California on July 6, 1992. This suspension was imposed after the initiation of a disciplinary action charging Respondent with conduct which, if committed in New York, would constitute professional misconduct as defined in N.Y. Educ. Law Section

6530 including, inter alia subsections (4) (gross negligence on a particular occasion), (3) negligence on more than one occasion, (5) incompetence on more than one occasion, (31) willfully abusing a patient either physically or verbally, and/or (20), conduct in the practice of medicine which evidences moral unfitness to practice medicine.

1. The conduct on which said suspension was based included, inter alia the grossly negligent, incompetent, and abusive performance of rectal examinations of eight women, with several of these women also being subjected to medically unwarranted vaginal touching and/or penetration, by Respondent, that was neither brief nor incidental.

B. On or about February 13, 1992, at Respondent's medical office in Encinitas California, in the course of a purported rectal examination of Patient A, Respondent intentionally engaged in sexually offensive contact with Patient A, without a reasonable good faith belief that the contact was for a legitimate medical purpose, and without the patient's consent to such contact. (Patient A is identified in Appendix A, attached.)

Withdrawn by  
Petitioner--  
12/7/93  
JLS

SPECIFICATIONS

FIRST SPECIFICATION

HAVING LICENSE SUSPENDED

Respondent is charged with professional misconduct, within the meaning of N.Y. Educ. Law Section 6530(9)(d) in that Respondent has had his license to practice medicine suspended or has had other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state where the conduct resulting in the suspension or other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State in that Petitioner alleges:

1. The facts in Paragraphs A and A(1).

SECOND SPECIFICATION

WILLEFULLY ABUSING A PATIENT

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law section 6530(31) (McKinney Supp. 1993), in that Respondent has willfully abused a patient physically or verbally. Specifically, Petitioner charges:

Withdrawn  
by  
Petitioner--  
12/7/93  
JLL

2. The facts in paragraph B.

THIRD SPECIFICATION

MORAL UNFITNESS TO PRACTICE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law section 6530(20) by engaging in conduct in the practice of medicine that evidences moral unfitness to practice medicine. Specifically, Petitioner charges:

3. The facts in paragraph B.

DATED: New York, New York

November 17, 1993

  
CHRIS STERN HYMAN  
Counsel  
Bureau of Professional Medical  
Conduct

withdrawn  
by  
Petitioner  
12/7/93  
JES