



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

April 11, 1995

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OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jeffrey A. Briggs, M.D.
Respondent
556 Cardinal Drive
Pasadena, MD 21122

James C. Hopkins, III, Esq.
The Monroe Building
333 East Onondaga Street
Syracuse, NY 13202

Cindy Fascia, Esq.
Assistant Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower-Room 2429
Empire State Plaza
Albany, NY 12237-0032

RE: In the Matter of Jeffrey Briggs, M.D.

Dear Dr. Briggs, Mr. Hopkins and Ms. Fascia:

Enclosed please find the Determination and Order (No. 95-85) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 then 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), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

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
Empire State Plaza
Corning Tower, Room 2503
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.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm

Enclosure

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

**IN THE MATTER
OF
JEFFREY BRIGGS, M.D.**

**DETERMINATION
AND
ORDER**

BPMC-95-85

THERESE G. LYNCH, M.D., (Chair), **STANLEY D. LESLIE, M.D.** and **OLIVE M. JACOB** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10)(e) of the Public Health Law.

MARC P. ZYLBERBERG, ESQ., ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer.

The Department of Health appeared by **CINDY FASCIA, ESQ.**, Associate Counsel.

Respondent, **JEFFREY BRIGGS, M.D.**, appeared personally and was represented by **JAMES C. HOPKINS, III, ESQ.**, of counsel.

Evidence was received and examined, including witnesses who were sworn or affirmed. Transcripts of the proceeding were made. After consideration of the record, the Hearing Committee issues this Determination and Order, pursuant to the Public Health Law and the Education Law of the State of New York.

PROCEDURAL HISTORY

Date of Notice of Hearing:	December 12, 1994
Date of Service of Notice of Hearing:	December 23, 1994
Date of Statement of Charges:	December 12, 1994
Date of Service of Statement of Charges:	December 23, 1994
Answer to Statement of Charges:	None Filed
Pre-Hearing Conferences Held:	January 5, 1995 ¹ January 25, 1995
Hearings Held:	January 25, 1995 February 15, 1995
Petitioner's Proposed Findings, Conclusions and Recommendation:	Received March 3, 1995
Respondent's memorandum in summary of his position:	Received March 9, 1995
Witnesses called by the Petitioner, Department of Health:	Patient A ²
Witnesses called by the Respondent, Jeffrey Briggs, M.D.:	Shelly Wilcox Jeffrey Briggs, M.D.
Deliberations Held:	March 15, 1995

¹ Telephone.

² Patient A is identified in an appendix to the Statement of Charges.

STATEMENT OF CASE

The State Board for Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York (§230 et seq. of the Public Health Law of the State of New York [hereinafter P.H.L.]).

This case was brought pursuant to §230 of the P.H.L. Respondent, JEFFREY BRIGGS, M.D., (hereinafter "Respondent") is charged with four (4) specifications of professional misconduct³ as delineated in §6530 of the Education Law of the State of New York (hereinafter Education Law).

Respondent is charged with willful verbal abuse, harassment or intimidation of a patient, and with committing conduct in the practice of medicine that evidences moral unfitness to practice medicine. These charges stem from Respondent's alleged remarks to Patient A at Carthage OB/GYN Associates in Watertown, New York. Respondent is also charged with having been found guilty of professional misconduct by the medical disciplinary agencies of Maryland and Virginia. The conduct which resulted in Respondent being found guilty of misconduct included his engaging in sexual relationships with two of his patients and willfully making or filing false reports or records in the practice of medicine.

A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

³ Education Law §6530(9)(b), (20) and (31) and First through Fourth Specifications of Petitioner's Exhibit # 1.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. These facts represent evidence and testimony found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence or testimony, if any, was considered and rejected in favor of the cited evidence. Some evidence and testimony was rejected as irrelevant. Unless otherwise noted, all Findings and Conclusions herein were unanimous. The State, who has the burden of proof, was required to prove its case by a preponderance of the evidence. All Findings of Fact made by the Hearing Committee were established by at least a preponderance of the evidence.

1. Respondent was authorized to practice medicine in New York State on October 24, 1980 by the issuance of license number 143818 by the New York State Education Department (Petitioner's Exhibits # 1 & # 6)⁴; [T-179]⁵.

2. Respondent was last registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 (Petitioner's Exhibits # 1 & # 6).

3. John L. Fout attempted to personally serve a Notice of Referral proceeding and a Statement of Charges on Respondent on December 17, 1994 at 12:05 P.M., December 17, 1994 at 7:00 P.M. , on December 19, 1994 at 11:00 A.M. and on December 20, 1994 at 1:55 P.M. (Petitioner's Exhibit # 2B).

⁴ Refers to exhibits in evidence submitted by the New York State Department of Health (Petitioner's Exhibit) or by Dr. Jeffrey Briggs (Respondent's Exhibit).

⁵ Numbers in brackets refer to transcript page numbers [T-].

4. Judith S. Staffer personally served a Notice of Hearing and a Statement of Charges on Respondent's attorney, James C. Hopkins, III, on December 23, 1994 (Petitioner's Exhibit # 2A). Respondent personally appeared at all stages of the hearings and did not object to jurisdiction.

PATIENT A

5. On September 24, 1993, Patient A, went to Carthage OB/GYN Associates, 502 South Washington Street, Carthage, New York, 13619 ("Carthage OB/GYN") (Petitioner's Exhibit # 5); [T-43].

6. Patient A was a 21 year old woman at the time of her initial appointment at Carthage OB/GYN. Patient A had received her gynecologic care from Planned Parenthood in Watertown, New York for the prior six years (Petitioner's Exhibit # 5); [T-42-44, T-108].

7. Patient A had been informed by Planned Parenthood that she had an abnormal pap smear (her third) and was advised by Planned Parenthood to seek care from a private OB/GYN office where a colposcopy and, if necessary, cryosurgery could be performed (Petitioner's Exhibit # 5); [T-42-43, T-64-65, T-109-111].

8. Respondent was hired by Carthage OB/GYN in July, 1993. His first day of work was July 12, 1993. His last day with Carthage OB/GYN was July 29, 1994 [T-122-123, T-137, T-167].

9. Patient A's medical visit was assigned to Respondent. It was patient A's first medical visit to Carthage OB/GYN and first meeting with Respondent [T-41-44, T-62, T-87].

10. On September 24, 1993, Respondent examined patient A in the presence of Shelley Lee Wilcox, an employee of Carthage OB/GYN [T-45-50, T-119-120, T-124-126].

11. Respondent's examination of Patient A included the posing of various questions, performing a breast examination and performing a colposcopy (Petitioner's Exhibit # 5); [T-83, T-244].

12. During Patient A's colposcopy, Respondent said that he could see "a lot of the white stuff". Patient A understood this to mean infection or dysplasia but did not really understand what was occurring, what would happen next and what the effects would be of further testing and cryosurgery [T- 48, T-84, T-112].

13. Respondent did not fully explain to Patient A what he was doing and what would happen next or what the consequences would be [T-74, T-84].

14. During Patient A's colposcopy, Respondent "made light of what was happening" and asked Patient A several times if she was awake. When Patient A did not reply, Respondent pulled down the drape so that he could see her, and again asked Patient A if she was awake [T-48].

15. Patient A testified that Respondent asked her if she was having a good time. When Patient A did not reply, Patient A testified that Respondent then told her that he was having a good time [T-48].

16. Shelley Wilcox testified that Respondent did not tell Patient A that Respondent was having a good time. Both Ms. Wilcox and Respondent testified that no improper conduct or inappropriate comments occurred during Patient A's examination [T-128-129, T-245].

17. Respondent told Patient A that some women come in and schedule their pap smear examinations every three months instead of every six months [T- 48-49, T-129].

18. After Respondent completed the examination and colposcopy, he told Patient A that she would have to return for cryosurgery. He told Patient A that she could get dressed. Respondent and Shelly Wilcox left the examination room [T- 49-50, T-84].

19. Patient A found Respondent's comments to her to be insulting, offensive and humiliating. Respondent's remarks made Patient A feel "uncomfortable and threatened", but Patient A did not claim, suggest or believe that there was any inappropriate sexual contact or conduct by Respondent [T-72, T-78, T-107].

20. Patient A, subsequent to her first appointment at Carthage OB/GYN on September 24, 1993, returned to the practice on numerous occasions (at least five times) for treatment. On all these subsequent visits, Patient A was treated by Dr. Crawford. Patient A never complained or indicate, to Dr. Crawford directly, that Respondent had done anything inappropriate . Patient A never saw Respondent for treatment again (Petitioner's Exhibits #5); [T-56, T-68-69, T-84, T-112-113].

21. Respondent and Shelly Wilcox were involved in a relationship at the time of Patient A's appointment on September 24, 1993 [T-139-140, T-145-146, T-243, T-302].

22. Patient A, at the time of her appointment with Respondent, was taking Amitryptline, which had been prescribed by Patient A's family physician in order to control Patient A's anxiety attacks and migraine headaches [T-59-61, T-67, T-93].

23. Some of the side effects that Patient A experienced with Amitryptline, as she increased the dosage, included visual disturbances, darkness and shadows [T-60, T-67].

24. Patient A was nervous, upset and uncomfortable about the colposcopy procedure. Patient A was also under a severe amount of stress due to her other medical problems, including possible muscular dystrophy, and her work situation (Petitioner's Exhibit # 5); [T-60-61, T-64-67, T-72].

Maryland Board of Physician Quality Assurance

25. The State Board of Physician Quality Assurance of the State of Maryland (hereinafter "Maryland Board") is a state agency charged with regulating the practice of medicine pursuant to the laws of the State of Maryland (Petitioner's Exhibit # 3 and Respondent's Exhibit # C).

26. On November 19, 1992, Respondent voluntarily surrendered his license to practice medicine in Maryland. This voluntary surrender occurred at a time when an investigation was being performed by the Maryland Board but before any charges had been filed against Respondent (Petitioner's Exhibit # 3).

27. On February 24, 1993, the Maryland Board filed charges against Respondent for professional misconduct under Maryland Medical Practice Act, (Md. Health Occ. Code Ann.) §14-404 ("Maryland Act") (Petitioner's Exhibit # 3).

28. On October 20, 1994, Respondent entered into an Interim Consent Order ("Interim Order") with the Maryland Board. The Maryland Board accepted the Interim Order on November 1, 1994 (Petitioner's Exhibit # 3).

29. In the Interim Order, the Maryland Board found Respondent guilty of immoral or unprofessional conduct in the practice of medicine, and of willfully making or filing a false report or record in the practice of medicine, in violation of the Maryland Act, §§14-404(a)(3) and (11) (Petitioner's Exhibit # 3).

30. Respondent's misconduct on which the Maryland Board's findings of fact and conclusions were based included:

- (a) engaging in sexual relationships with two of his gynecology patients;
- (b) providing medical treatment, prescribing medications and/or performing medical procedures on these patients during the time that Respondent was intimately involved with them;
- (c) making false entries on a patient's medical record;
- (d) misrepresenting to another physician to whom Respondent referred one of these patients for a medical procedure that the patient was "Mrs. Briggs"; and
- (e) failing to document medical procedures Respondent performed and prescriptions Respondent issued in the patient's medical record. (Petitioner's Exhibit # 3).

31. The Maryland Board's findings of fact and conclusions of law in the Interim Order were extensive and the Hearing Committee accepts the findings and conclusions of the Maryland Board and adopts same as part of its own Findings of Fact. The Maryland Board's findings and conclusions (the Interim Order) are annexed hereto as appendix II and are incorporated herein (Petitioner's Exhibit # 3).

32. The Maryland Board, pursuant to the Interim Order, reinstated Respondent's license to practice medicine in Maryland with the following limitations:

(a) probation for three years;

(b) a supervised practice setting in an institutional setting or group practice;

(c) psychotherapy sessions for a minimum period of six months;

(d) satisfactory completion of an ethics course; and

(e) a female chaperon present during all physical examinations and treatment of female patients (Petitioner's Exhibit 3).

33. On December 24, 1994, the Maryland Board issued a Final Order, a copy of which is annexed hereto and incorporated herein as appendix III (Respondent's Exhibit # C).

Virginia Board of Medicine

34. The Department of Health Professions, Board of Medicine of the State⁶ of Virginia ("Virginia Board") is a state agency charged with regulating the practice of medicine pursuant to the laws of the State of Virginia (Petitioner's Exhibit # 4).

35. On September 9, 1994, the Virginia Board issued a notice to Respondent scheduling a hearing before the Virginia Board of Medicine. A Statement of Particulars charging Respondent with violations of Virginia Code §§ 54.1-2915.A(1), (6) and (3) was also issued (Petitioner's Exhibit # 4).

36. On October 14, 1994, Respondent personally appeared before a panel of the Virginia Board in an administrative hearing regarding the allegations contained in the aforementioned Statement of Particulars (Petitioner's Exhibit # 4).

⁶ Also referred to as the Commonwealth of Virginia.

37. On November 9, 1994, the Virginia Board issued Findings of Fact, Conclusions of Law, and an Order finding that Respondent had violated Virginia Code §§ 54.1-2915.A(1), (6) and (3) (petitioner's Exhibit # 4).

38. The Virginia Board found that Respondent, in his November 19, 1992 letter of surrender to the Maryland Board, affirmed that he did not possess a license to practice medicine in any other state, when in fact, Respondent was licensed to practice medicine in Virginia in 1984, and had made reapplication for his Virginia license on November 5, 1992 (Petitioner's Exhibit # 4).

39. The Virginia Board further found that Respondent had provided medical care (ie: medications, surgical procedures, diagnostic tests and physical examinations) to a patient during the time he was engaged in a sexual relationship with her. Also, the Virginia Board found that Respondent failed to maintain patient records as to that particular patient, which may have negatively impacted on her subsequent medical care (Petitioner's Exhibit # 4).

40. The Virginia Board ordered that Respondent's license to practice medicine in Virginia be indefinitely suspended for a period of not less than one year, and that Respondent may not apply for reinstatement of his license until such time as he obtains a full and unrestricted license in Maryland (Petitioner's Exhibit # 4).

CONCLUSIONS OF LAW

The Hearing Committee makes the following conclusions, pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee concludes that the following Factual Allegations, from the December 12, 1994, Statement of Charges, are **SUSTAINED**:⁷

Paragraph 1.	:	(5 - 11)
Paragraph 1.a	:	(5 - 16)
Paragraph 1.b	:	(5 - 16)
Paragraph 2	:	(25 - 33)
Paragraph 3	:	(34 - 40)

The Hearing Committee concludes that the following Factual Allegations, from the December 12, 1994 Statement of Charges, are **NOT SUSTAINED**:

Paragraph 1.c	:	(5 - 18)
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Based on the above and the complete Findings of Fact, the Hearing Committee concludes that the following Specifications of Charges are **SUSTAINED**:⁸

THIRD SPECIFICATION: (Paragraph: 2)

FOURTH SPECIFICATION: (Paragraph: 3)

⁷ The numbers in parentheses refer to the Findings of Fact previously made herein by the Hearing Committee and support each Factual Allegation contained in the Statement of Charges.

⁸ The citations in parentheses refer to the Factual Allegations which support each Specification.

Based on the above and the complete Findings of Fact (Paragraphs 1 through 40), the Hearing Committee concludes that the following Specifications of Charges are **NOT SUSTAINED**:

FIRST SPECIFICATION: (Paragraphs: 1, 1.a, 1.b, 1.c)

SECOND SPECIFICATION: (Paragraphs: 1, 1.a, 1.b, 1.c)

DISCUSSION

New York Law

The Respondent is charged with four specifications alleging professional misconduct within the meaning of §6530 of the Education Law. §6530 of the Education Law sets forth a number and variety of forms or types of conduct which constitute professional misconduct.

§6530(31) of the Education Law indicates that "Willfully harassing, abusing, or intimidating a patient either physically or verbally" is professional misconduct.

§6530(20) of the Education Law indicates that "Conduct in the practice of medicine which evidences moral unfitness to practice medicine" is professional misconduct.

Professional misconduct within the meaning of §6530(9)(b) of the Education Law is defined as "professional misconduct ... by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state ..." In order to find that Respondent committed professional misconduct under §6530(9)(b) of the Education

Law, the Hearing Committee must determine:

(1) whether Respondent was found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state and

(2) whether Respondent's conduct on which the findings were based would, if committed in New York State, constitute professional misconduct under the laws of New York State.

Witnesses

With regard to the testimony presented by Patient A, by Respondent and by Ms. Wilcox, the Hearing Committee evaluated each witness for possible bias. The witnesses were also assessed according to their training, experiences, credentials, demeanor and credibility.

The Hearing Committee concludes that Patient A was a credible witness. The Hearing Committee had no reason to doubt that Patient A believed what she said and what was said to her during her medical examination on September 24, 1993.

As to Respondent's witness, Shelley Wilcox, the Hearing Committee found her testimony to be generally credible, although sometimes she was evasive or not responsive. Her memory of events were conveniently selective. The Hearing Committee found that Shelly Wilcox's intimate relationship with Respondent may have had an effect on her testimony in this matter. Her bias and interest had a minor effect on the weight the Hearing Committee gave her testimony.

The Respondent offered some credible testimony and some not so credible testimony. The Hearing Committee believes that Respondent was untruthful, at times, when necessary to bolster his position. Obviously Respondent had the greatest amount of interest in the results of these proceedings. Some of Respondent's testimony was found to be self-protecting and less than honest. As a result, the Hearing Committee gave less weight to Respondent's testimony, unless otherwise supported.

PATIENT A

The Hearing Committee concludes that Patient A was sincere and believed that Respondent asked her if she was having a good time (or words to that effect) while he was performing a colposcopy on her. The Hearing Committee also concludes that Patient A believed that Respondent indicated that he was having a good time (or words to that effect). Her experience with Respondent was upsetting and her natural reaction was that she wanted to get out of the office as soon as possible.

However, the Hearing Committee concludes that Patient A was under a considerable amount of stress at the time of the examination. Due to that stress and apprehension about the results of the colposcopy, the Hearing Committee concludes that Patient A misinterpreted Respondent's comments. The Hearing Committee believes that Respondent, who was probably trying to make "small talk", uttered some words which may have been inappropriate for this patient. However

Respondent's inappropriate comments does not rise to the level of being willful or intentional harassment, abuse or intimidation of a patient.

Respondent's comments to Patient A were at best offensive, inappropriate and tasteless. At worst Respondent's comments were so crude and unrefined as to be lacking in sensibility.

The Hearing Committee concludes and determines that Respondent's conduct towards Patient A was not done to harass, abuse or intimidate her.

Using the above definitions and understanding, the Hearing Committee unanimously concludes that the Department of Health has not shown by a preponderance of the evidence that Respondent's conduct as to Patient A was willfully harassing, abusing or intimidating.

Respondent's conduct toward Patient A does not constitutes conduct in the practice of medicine that evidences moral unfitness to practice medicine. Conduct evidencing moral unfitness to practice medicine has been defined as an act or acts which violate the moral standards of the professional community. In the alternative, it has been defined as occurring when a physician violates a trust conferred on him by virtue of his licensure.

In this case, Respondent's conduct towards Patient A demonstrates a lack of insight and possibly stupidity (defined as a stupid act, remark, or idea). However the Hearing Committee can not find, as a matter of fact or law, that Respondent violated the moral standards of the professional community and violated the trust Patient A had placed in Respondent as a physician.

Patient A indicated that she felt that Respondent made light of the procedure, did not fully explain what he was doing and what the procedure would entail. This is in sharp contrast to her visit with Dr. Crawford who explained everything. The Hearing Committee finds that respondent's conduct does not rise to the level of moral unfitness to practice medicine.

Using the above definitions and understanding, the Hearing Committee unanimously concludes that the Department of Health has not shown by a preponderance of the evidence that Respondent's conduct as to Patient A was immoral or that Respondent is morally unfit.

Professional Misconduct under §6530(9)(b) of the Education Law.

Maryland Board of Physician Quality Assurance

The Maryland Board of Physician Quality Assurance is a duly authorized professional disciplinary agency. In 1994, said Maryland Board found Respondent guilty of violating Maryland Statutes and said violations warranted disciplinary action by the Maryland Board.

Taking the findings of the Maryland Board as true, the Hearing Committee finds that the record establishes that Respondent conduct in Maryland would if committed in New York State, constitute professional misconduct under the laws of New York State.

The Hearing Committee finds that Respondent's conduct, if committed in New York State, constitutes professional misconduct under §6530 of the Education Law as follows:

(1) professional misconduct by reason of willfully making or filing a false report⁹ (Finding of Fact # 30[c] and Interim Order); and

(2) professional misconduct by reason of failing to maintain records which accurately reflect the evaluation and treatment of the patients¹⁰ (Finding of Fact # 30[e] and Interim Order); and

(3) professional misconduct by reason of conduct in the practice of medicine which evidences moral unfitness to practice medicine¹¹ (Finding of Fact # 30[a] & [b] and Interim Order); and

(4) professional misconduct by reason of fraudulent practice¹² (Finding of Fact # 30[d] and Interim Order).

Therefore, Respondent has committed professional misconduct pursuant to §6530(9)(b) of the Education Law.

Professional Misconduct under §6530(9)(b) of the Education Law.

Virginia Board of Medicine

The Virginia Board of Medicine is a duly authorized professional disciplinary agency. In 1994, said Virginia Board found Respondent guilty of violating Virginia statutes and said violations warranted disciplinary action by the Virginia Board.

⁹ Education Law §6530(21).

¹⁰ Education Law §6530(32).

¹¹ Education Law §6530(20).

¹² Education Law §6530(2).

The Virginia Board's findings were based on Respondent's conduct in Maryland and therefore need not be repeated (see discussion under Maryland Board of Physician Assurance).

The Hearing Committee finds that the record establishes that Respondent's conduct would if committed in New York State, constitute professional misconduct under the laws of New York State.

Therefore, Respondent has committed professional misconduct pursuant to §6530(9)(b) of the Education Law.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determines as follows:

1. Respondent should be placed on probation for a period of three (3) years from the effective date of this Determination and Order and must comply with the terms of probation contained in Appendix IV, and
2. The terms of probation shall include (a) a requirement that Respondent provide proof of timely completion of the ethics course required by paragraph 3 of the Final Order¹³ of the Maryland Board; (b) a requirement that Respondent will only work under clinical practice supervision; and (c) a requirement that a disinterested female third party monitor be present during all examinations and treatment of all female patients.

¹³ Final Order of Case Number 93-0138, dated 12/27/94 and signed by Israel H. Weiner, M.D., Chairman (Respondent's Exhibit # C) (Appendix III herein).

This determination is reached after due and careful consideration of the full spectrum of penalties available pursuant to P.H.L. §230-a, including:

(1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) the imposition of monetary penalties; (8) a course of education or training; (9) performance of public service and (10) probation.

The record clearly establishes that Respondent committed significant violations of Maryland Laws. Respondent's lack of integrity, character and moral fitness is evident in his course of conduct in Maryland.

The testimony and submissions by Respondent does not give an adequate excuse or shed any different light on the charges brought in Maryland (Respondent's Exhibits # E, F and G). The fact that Respondent's relationships with his two patients in Maryland were long term and consensual relationships does not absolve Respondent from fault in his continuation of treatment of those patients.

The Hearing Committee notes and acknowledges that Respondent has completed the psychiatric evaluation and treatment required by the Maryland Board (Respondent's Exhibits # G). Therefore, the Hearing Committee finds no compelling reason to require additional psychiatric evaluation and treatment in New York.

The Hearing Committee does acknowledge and specifically states that the Health Department (Petitioner) did not place at issue in this hearing Respondent's clinical competence.

However, Respondent's insight, personal judgment, integrity, character and moral fitness is questionable and needs to be monitored for at least the next three years.

The Hearing Committee considers Respondent's misconduct in Maryland to be very serious. The Hearing Committee determines that the above penalties are the appropriate sanctions to impose under the circumstances.

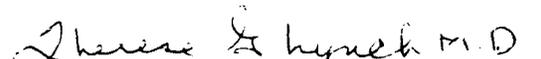
All other issues raised by both parties have been duly considered by the Hearing Committee and would not justify a change in the Findings, Conclusions or Determination contained herein.

ORDER

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

1. The First and Second Specifications of professional misconduct from the Statement of Charges (Petitioner's Exhibit # 1) are **NOT SUSTAINED**, and
2. The Third and Fourth Specifications of professional misconduct from the Statement of Charges (Petitioner's Exhibit # 1) are **SUSTAINED**, and
3. Respondent is placed on **PROBATION** for a period of **THREE (3) YEARS** from the effective date of this Determination and Order and must comply with the terms of probation contained in Appendix IV, and
4. Respondent shall provide proof of timely completion of the ethics course required by paragraph 3 of the Final Order of the Maryland Board, and
5. Respondent shall only work under clinical practice supervision, and
6. A disinterested female third party monitor shall be present during all examinations and treatment of all female patients.

DATED: Albany, New York
April // , 1995


THERESE G. LYNCH, M.D., (Chair),

STANLEY D. LESLIE, M.D.
OLIVE M. JACOB

To: Jeffrey A. Briggs, M.D.
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A P P E N D I X I

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

-----X

IN THE MATTER : STATEMENT
OF : OF
JEFFREY BRIGGS, M.D. : CHARGES

-----X

JEFFREY BRIGGS, M.D., the Respondent, was authorized to practice medicine in New York State on October 24, 1980, by the issuance of license number 143818 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine in New York State for the period January 1, 1993 through December 31, 1994 from 38 Benton Avenue, Monticello, New York 12701.

FACTUAL ALLEGATIONS

1. Respondent, on or about September 24, 1993, provided medical treatment to Patient A (identified in the Appendix) at Carthage OB/GYN Associates, 502 South Washington Street, Carthage, New York 13619.
 - a. Respondent, while performing a pelvic examination of Patient A, asked her if she was "having a good time," or words to such effect.
 - b. Respondent, while performing a pelvic examination of Patient A, told her that he was "having a good time,"

or words to such effect.

- c. Respondent, while performing a pelvic examination of Patient A, told her that some women schedule their appointments every three months because they have a good time during pelvic examinations, or words to such effect.

2. Respondent, on or about October 20, 1994, entered into an Interim Consent Order with the Maryland Board of Physician Quality Assurance. The Maryland Board, in its Findings of Fact and Conclusions of Law in said Order, found Respondent guilty of immoral or unprofessional conduct in the practice of medicine, and of willfully making or filing a false report or record in the practice of medicine, in violation of the Maryland Medical Practice Act, Md. Health Occ. Code Ann. §§ 14-404(a)(3) and (11). Respondent's misconduct, as set forth in the Maryland Board's Findings of Fact, included engaging in sexual relationships with two of his gynecology patients; providing medical treatment, prescribing medications, and/or performing medical procedures on these patients during the time that Respondent was intimately involved with them; making false entries on a patient's medical record, misrepresenting to another physician to whom Respondent referred one of these patients for a medical procedure that the patient was "Mrs. Briggs" and failing to document medical procedures he performed and prescriptions he issued in the patient's medical record. Respondent's conduct upon which the Maryland Board's findings of guilt were based would, if committed

in New York state, constitute professional misconduct under the laws of New York state, specifically N.Y. Educ. Law §6530(21) [willfully making or filing a false report]; and/or §6530(20) [conduct in the practice of medicine which evidences moral unfitness to practice medicine]; and/or §6530(2) [practicing the profession fraudulently]; and/or §6530(32) [failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient].

3. Respondent, on or about November 9, 1994, was issued Findings of Fact, Conclusions of Law, and an Order by the Virginia Board of Medicine. The Virginia Board, in its Conclusions of Law, found Respondent guilty of professional misconduct, in that it found that he had violated certain laws governing the practice of medicine in Virginia. Specifically, the Board found that Respondent had violated Virginia Code Section 54.1-2915.A(1), in that he had made false statements or representations or committed fraud or deceit in obtaining admission to the practice of medicine, or fraud or deceit in the practice of medicine; that Respondent had violated Virginia Code Section 54.1-2915.A(6), in that he had his license to practice medicine in another state revoked, suspended or restricted; that Respondent had violated Virginia Code Section 54.1-2914.A(9), in that he conducted his medical practice in a manner contrary to the standards of medical ethics; that Respondent had violated Virginia Code Section 54.1-2914.A(10), in that he conducted his medical practice in such a manner as to be a danger to the health and welfare of his patients or to the public; and that Respondent

had violated 54.1-2914.A(13), in that he had performed an act or acts likely to deceive, defraud or harm the public. Respondent's misconduct, as set forth in the Virginia Board's Findings of Fact, included his making false statements to the Maryland Board of Physician Quality Assurance regarding the status of his Virginia medical license, his engaging in a sexual relationship with Patient A during the time that he was providing medical care to her, and his failure to maintain patient records documenting the medical procedures he performed on Patient A. Respondent's conduct upon which the Virginia Board's findings of guilt were based would, if committed in New York state, constitute professional misconduct under the laws of New York state, specifically N.Y. Educ. Law §6530(2) [practicing the profession fraudulently]; and/or §6530(20) [conduct in the practice of medicine which evidences moral unfitness to practice medicine]; and/or §6530(21) [willfully making or filing a false report]; and/or §6530(32) [failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient].

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

VERBALLY HARASSING, ABUSING OR
INTIMIDATING A PATIENT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(31) (McKinney Supp. 1994) by reason of his

willfully harassing, abusing or intimidating a patient verbally, in that Petitioner charges:

1. The facts in Paragraphs 1 and 1(a) and/or 1(b) and/or 1(c).

SECOND SPECIFICATION

IMMORAL CONDUCT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(20) (McKinney Supp. 1994) by reason of his having committed conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

2. The facts in Paragraphs 1 and 1(a) and/or 1(b) and/or 1(c).

THIRD SPECIFICATION

HAVING BEEN FOUND GUILTY OF
PROFESSIONAL MISCONDUCT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1994) by reason of his having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if

committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

3. The facts in Paragraph 2.

FOURTH SPECIFICATION
HAVING BEEN FOUND GUILTY OF
PROFESSIONAL MISCONDUCT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1994) by reason of his having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

4. The facts in Paragraph 3.

DATED: *Dec 12*, 1994
Albany, New York

Peter D. Van Buren

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

A P P E N D I X I I

IN THE MATTER OF
JEFFREY A. BRIGGS, M.D.
Respondent
License Number D28640

* BEFORE THE STATE BOARD OF
* STATE BOARD OF PHYSICIAN
* QUALITY ASSURANCE
* Case Number 93-0138

INTERIM CONSENT ORDER

BACKGROUND

On February 24, 1993, the State Board of Physician Quality Assurance (the "Board"), pursuant to its authority under Md. Health Occ. Code Ann., §14-404, charged Jeffrey A. Briggs, M.D. (the "Respondent"), (D.O.B. 11/9/53), License Number D28640, under the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §14-404. The pertinent provisions of §14-404 provide:

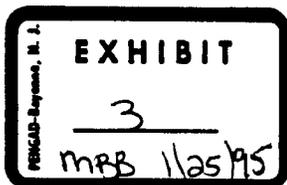
(a) Subject to the hearing provisions of §14-405 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(2) Fraudulently or deceptively uses a license;

(3) Is guilty of immoral or unprofessional conduct in the practice of medicine;

(11) Willfully makes or files a false report or record in the practice of medicine;

(22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.



Respondent voluntarily surrendered his license to practice medicine in the State of Maryland on November 19, 1992 at a time when an investigation was being performed by the Board but before any charges had been filed against him. Thereafter, a committee of the Board convened an initial Case Resolution Conference ("CRC") at which extensive discussions occurred resulting in a decision to convene another CRC. On February 24, 1993, the Board formally filed charges against Respondent. The second CRC occurred on April 14, 1993 to resolve the outstanding charges against Respondent. Although the CRC recommended that the case be resolved by entering into a Consent Order, Respondent did not sign the Consent Order.

On June 1, 1994 another CRC was held and Respondent agreed to sign this Interim Consent Order. The Board, at its meeting on June 22, 1994 voted to accept the Interim Consent Order.

FINDINGS OF FACT

1. At all times relevant to these charges, Respondent was and is licensed to practice medicine in the State of Maryland.

2. On or about April 29, 1982, Patient A¹ sought treatment from a group practice in which Respondent was a member

¹To ensure confidentiality, patient names are not used in the charging document. The Board maintains a list of patient names which corresponds to the alphabetical letter used in the charging document. This information is available to the Respondent upon request.

physician. In 1988, Patient A was referred to Respondent for a surgical procedure. Respondent performed a physical examination on Patient A on February 4, 1988 and scheduled surgery for April 19, 1988.

3. Respondent operated on Patient A on April 19, 1988. Shortly thereafter, Respondent and Patient A began a sexual relationship. At that time Respondent advised Patient A that her regular gynecologic care should be undertaken by another physician and Patient A initially made arrangements to do so.

4. Sometime thereafter, Respondent gave Patient A samples of birth control pills. In October, 1989, Respondent performed diagnostic tests in his office after hours. Respondent typed the patient's name as "Briggs" on one of the medical reports. Respondent wrote Patient A's last name as "Briggs" on a prescription blank that listed pertinent medical information. Respondent referred Patient A to another physician for a medical procedure. Respondent referred to Patient A as "Mrs. Briggs" when he spoke to the other physician. After the procedure, Respondent prescribed medication for Patient A.

5. In December, 1989, Respondent performed a medical procedure on Patient A in his office after hours.

6. In May, 1992, Respondent performed diagnostic tests on Patient A in his office after hours. On May 29-30, 1992, Respondent performed a procedure on Patient A in his office after hours. Respondent prescribed medications post-operatively.

7. Respondent failed to document any medical procedures or

medications concerning Patient A in the medical record since April 21, 1988.

8. On October 10, 1990, Patient B sought medical care from Respondent. On July 15, 1991, Patient B kept an appointment with Respondent. Respondent told Patient B that he was divorced and described the child custody battle. Respondent revealed personal details of his life to her. A few days later Respondent called Patient B and asked her if she would like to date him.

9. On or about July 18, 1991, Respondent and Patient B began a sexual relationship which continued until August, 1992. When Patient B realized that she had a scheduled appointment to see Respondent for medical care in January 1992, Patient B questioned whether Respondent should perform the examination. Respondent reassured Patient B that, despite their ongoing sexual relationship, Respondent could examine her. On January 3, 1992 Respondent performed a complete physical examination on Patient B in his office.

During the next eight months Respondent prescribed birth control pills and narcotics for Patient B while continuing the sexual relationship.

10. On November 19, 1992, due to an investigation of complaints by Patient A and Patient B alleging sexual misconduct, Respondent surrendered his license to practice medicine in the State of Maryland, pending the outcome of these charges.

11. In the letter of surrender dated November 19, 1992, Respondent affirmed that he did not possess a license to practice

medicine in any other state. Respondent was licensed to practice medicine by the Commonwealth of Virginia in 1984. That license subsequently lapsed and was in the process of being renewed in November, 1992. Respondent is currently licensed to practice in ~~Virginia and New York.~~
X P 3 10/20/94

12. Since November 19, 1992 Respondent has not been licensed in the State of Maryland.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes, as a matter of law, that the Respondent is guilty of immoral or unprofessional conduct in the practice of medicine, and is guilty of willfully making or filing a false report or record in the practice of medicine.

The Board, pursuant to its authority under Md. Health Occ. Code Ann., §14-406, dismisses the charges brought against the Respondent under Md. Health Code Ann. §§14-404(a)(2) and (22).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 1 day of November, 1994, by an affirmative vote of the majority of the full authorized membership of those members of the Board of Physician Quality Assurance of Maryland, who considered this case, hereby

ORDERED that Respondent's license to practice medicine in Maryland shall be REINSTATED with limitations and that Respondent is placed on PROBATION for a period of three (3) years from the effective date of the Interim Consent Order subject to the

following conditions:

(1) Prior to resuming the practice of medicine, Respondent shall present a description of the supervised practice setting in which he will be employed to the Case Resolution Conference for Board approval. Respondent's supervised practice setting shall be limited to either an institutional setting or a group practice with at least two OB/GYN physicians, one of whom must agree to serve as Respondent's immediate supervisor. Respondent shall disclose the Interim Consent Order to the supervising physician who, in turn, shall acknowledge his or her obligations under the supervisory relationship in writing to the Board. The supervising physician shall make quarterly reports to the Board regarding Respondent's compliance with the terms of the Interim Consent order and shall immediately notify the Board if Respondent is not in compliance with any of the terms and conditions.

(2) Prior to resuming the practice of medicine, Respondent shall sign a Final Consent Order that incorporates all of the provisions of the Interim Consent order in addition to any other restrictions deemed necessary by the Board.

(3) Beginning ^{August 1st 1994} ~~December~~ 1, 1994, Respondent shall resume psychotherapy sessions with Dr. Templeton or a Board-approved psychiatrist ("therapist") once a month for a minimum period of six months, or such additional time as recommended by said therapist. Within fifteen (15) days of Respondent's first session, the therapist shall send a written report to the Board

and quarterly reports thereafter indicating that Respondent is attending sessions in compliance with this Interim Consent Order.

(4) Respondent shall take and satisfactorily complete an ethics course approved by the Board;

(5) Respondent shall have a female chaperon present during all physical examinations and treatment of female patients.

ORDERED that if Respondent violates any of the foregoing terms and conditions of probation, the Board, after notification, a hearing, and a determination of violation, may impose any additional disciplinary sanctions it deems appropriate; and be it further

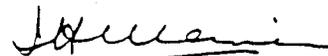
ORDERED that if Respondent presents a danger to the public health, safety or welfare, the Board, WITHOUT PRIOR NOTICE AND AN OPPORTUNITY FOR A HEARING, MAY SUSPEND RESPONDENT'S LICENSE, provided that Respondent is given notice of the Board's action and an opportunity for a hearing within thirty (30) days after Respondent requests a hearing; and be it further

ORDERED that Respondent will be responsible for all costs incurred under this Consent Order; and be it further

ORDERED that this Consent Order is considered a public document pursuant to Md. State Gov't Code Ann. §10-611, et seq. (1984).

11/1/94

Date



Israel H. Weiner, M.D., Chair
Maryland State Board of Physician
Quality Assurance

CONSENT

By signing this Consent, I hereby accept and agree to be bound by the foregoing Interim Consent Order and its conditions and restrictions, consisting of nine (9) pages.

1. I acknowledge the validity of this Order as if made after a hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law.

2. I also recognize that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing. By this Consent I waive all such rights.

3. I further understand that if I fail to comply with any of the conditions enumerated above, I may suffer further disciplinary action against my license to practice medicine in the State of Maryland.

4. I understand that if I present a danger to the public health, safety or welfare, the Board may, WITHOUT NOTICE PRIOR TO AN OPPORTUNITY TO BE HEARD, reinstate the suspension, and reinstitute formal proceedings against my license to practice medicine in Maryland.

5. I have had an opportunity to review this Order. I voluntarily sign this Order understanding its meaning and effect.

October 20, 1994

Date

Jeffrey A. Briggs, M.D.
Jeffrey A. Briggs, M.D.

STATE OF MARYLAND

CITY/COUNTY OF MONTGOMERY

I HEREBY CERTIFY this 20th day of October, 1994,
before me, a Notary Public of the State and City/County afore-
said, personally appeared Jeffrey A. Briggs, M.D., and made oath
in due form of law that the foregoing Interim Consent Order was
his voluntary act and deed.

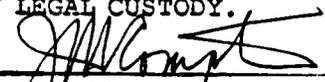
AS WITNESSETH my hand and notarial seal.



Notary Public

My Commission Expires: 8/30/98

I HEREBY ATTEST AND CERTIFY UNDER
PENALTY OF PERJURY ON 11/7/94
THAT THE FORGOING DOCUMENT IS A
FULL, TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE AND
IN MY LEGAL CUSTODY.



EXECUTIVE DIRECTOR
MARYLAND STATE BOARD OF
PHYSICIAN QUALITY ASSURANCE

A P P E N D I X I I I

IN THE MATTER OF
JEFFREY A. BRIGGS, M.D.

BEFORE THE STATE BOARD OF
STATE BOARD OF PHYSICIAN
QUALITY ASSURANCE

Respondent

License Number D28640

Case Number 93-0138

* * * * *

FINAL ORDER

BACKGROUND

On November 1, 1994, the Respondent entered into an Interim Consent Order with the Board of Physician Quality Assurance (the "Board").¹

Pursuant to the terms of the Interim Consent Order, the Respondent's license to practice medicine in the State of Maryland was Reinstated, and a three (3) year probationary period with conditions imposed. The Interim Consent Order, which ordered reinstatement, was based on the Respondent's Surrender of licensure on November 19, 1992. In accordance with the Interim Consent Order, the Respondent is required to comply with certain terms and conditions.

Prior to resuming the practice of medicine in the State of Maryland, the Respondent was required to comply with certain conditions and terms.

Condition (1) of the Interim Consent Order provides that prior to resuming the practice of medicine, the Respondent shall present a description of the supervised practice setting in which

¹A copy of the November 1, 1994 Interim Consent Order is attached and incorporated by reference.



he will be employed to the Case Resolution Conference (the "CRC") for Board approval. Respondent's supervised practice setting shall be limited to either an institutional setting or a group practice with at least two OB/GYN physicians, one of whom must agree to serve as Respondent's immediate supervisor. Respondent shall disclose the Interim Consent Order to the supervising physician who, in turn, shall acknowledge his or her obligations under the supervisory relationship in writing to the Board. The supervising physician shall make quarterly reports to the Board regarding Respondent's compliance with the terms of the Interim Consent Order and shall immediately notify the Board if Respondent is not in compliance with any of the terms and conditions.

Condition (2) of the Interim Consent Order provides that prior to resuming the practice of medicine, Respondent shall sign a Final Consent Order that incorporates all of the provisions of the Interim Consent Order in addition to other restrictions deemed necessary by the Board.

Condition (3) of the Interim Consent Order provides that beginning August 1, 1994, the Respondent shall resume psychotherapy sessions with Dr. Templeton or a Board-approved psychiatrist ("therapist") once a month for a minimum period of six months, or such additional time as recommended by said therapist. Within fifteen (15) days of Respondent's first session, the therapist shall send a written report to the Board and quarterly reports thereafter indicating that Respondent is

attending sessions in compliance with this Interim Consent Order.

Condition (4) of the Interim Consent Order provides that the Respondent shall take and satisfactorily complete an ethics course approved by the Board.

Condition (5) of the Interim Consent Order provides that the Respondent shall have a female chaperon present during all physical examinations and treatment of female patients.

FINDINGS OF FACT

1. On December 14, 1994, the Respondent appeared before the Board's Case Resolution Conference (the "CRC"), in accordance with Condition (1) of the Interim Consent Order, with a description of proposed supervised practice settings of employment.

2. The Respondent resumed psychotherapy sessions with Dr. Richard Templeton, beginning August 1994, in accordance with Condition (3) of the Interim Consent Order. Therapy is to continue, once a month for a minimum of six months, or until such time as recommended by said therapist.

CONCLUSION OF LAW

The Board incorporates by reference those Conclusions of Law set forth in the Interim Consent Order, dated November 1, 1994.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 27 day of December, 1994, by an affirmative vote of the majority of the full authorized membership of those members of the Board of Physician Quality Assurance of Maryland, which considered this case, it is hereby

ORDERED that the Respondent is placed on probation for a period of three (3) years from the effective date of the Interim Consent Order, dated November 1, 1994, subject to the following conditions:

1. As per the approval of the Board's Case Resolution Conference, the Respondent's practice of medicine in the State of Maryland shall be limited to one (1) of the following settings:

- (a) United States Army;
- (b) Prison Health Services, Inc., Dept. of Corrections;
- (c) Assistant County Medical Examiner, Anne Arundel County.

Respondent shall disclose the Final Order to the supervising physician who, in turn, shall acknowledge his or her obligations under the supervisory relationship in writing to the Board. The supervisory physician shall make quarterly reports to the Board regarding Respondent's continuation of employment. Any proposed medical practice setting other than that set forth in this Condition shall be presented to the Board's Case Resolution Conference for prior approval.

2. In accordance with the terms of the Interim Consent Order, the Respondent shall remain in psychotherapy with Dr.

Richard Templeton or a Board-approved psychiatrist ("therapist") six(6) months from the date in which he resumed therapy, or until such additional time as recommended by said therapist. Therapy sessions to occur once a month, with quarterly reports to the Board regarding the Respondent's attendance in compliance with the Order.

3. Respondent shall take and satisfactorily complete an ethics course, approved by the Board, within one (1) year from the effective date of this Final Order.

4. Condition (5) of the Interim Consent Order, requiring that the Respondent have a female chaperon present during all physical examinations and treatment of female patients, shall be stayed pending the Respondent's future intent to request Board approval of a practice setting other than that which is approved in this Final Order; and it is further

ORDERED that the Respondent's Reinstatement under the Interim Consent Order is effective upon filing and completion of all necessary documents required by the Board, and after the required administrative processing of those documents; and it is further

ORDERED that failure on the part of the Respondent to comply with any of the foregoing conditions of probation shall constitute a violation of probation; and it is further

ORDERED that if Respondent violates any of the foregoing terms and conditions of probation, the Board, after notification, a hearing, and a determination of violation, may impose any

additional disciplinary sanctions it deems appropriate; and it is further

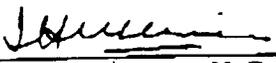
ORDERED that Respondent shall practice in accordance with the laws governing the practice of medicine in the State of Maryland; and it is further

ORDERED that if Respondent presents a danger to the public health, safety, or welfare, the Board, WITHOUT PRIOR NOTICE AND AN OPPORTUNITY FOR A HEARING, MAY SUSPEND RESPONDENT'S LICENSE, provided that Respondent is given notice of the Board's action and an opportunity for a hearing within thirty (30) days after Respondent requests a hearing; and it is further

ORDERED that Respondent will be responsible for all costs incurred under this Final Order; and it is further

ORDERED that this Final Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §10-611, et seq. (1984).

12/27/94
Date


Israel H. Weiner, M.D.
Chairman

A P P E N D I X I V

TERMS OF PROBATION

1. Respondent shall conduct himself at all times in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.

2. Respondent shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.

3. Respondent shall submit written notification to the Board addressed to the Director, Office of Professional Medical Conduct ("OPMC"), Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237, regarding any change in employment, practice, addresses, (residence or professional) telephone numbers, and facility affiliations within or without New York State, within 30 days of such change.

4. Respondent shall submit written notification to OPMC of any and all investigations, charges, convictions or disciplinary actions taken by any local, state or federal agency, institution or facility, within 30 days of each charge or action.

5. In the event that Respondent leaves New York to reside or practice outside the State, Respondent shall notify the Director of the OPMC in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. The probation periods shall be tolled until the Respondent returns to practice in New York State.

6. Respondent shall have quarterly meetings with an employee or designee of OPMC during the periods of probation. In these quarterly meetings, Respondent's professional performance may be reviewed by inspecting selections of office records, patient records and hospital charts.

7. Respondent shall submit semi-annual declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the OPMC at the address indicated above.

8. Respondent shall submit written proof to the Director of the OPMC at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine as a physician with the New York State Education Department. If Respondent elects not to practice medicine as a physician in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

9. Respondent shall provide proof of timely completion of the ethics course required by paragraph 3 of the Final Order of the Maryland Board

10. Respondent shall only work under clinical practice supervision in accordance with the following:

(a) Respondent will work only in a supervised setting, which may include but not be limited to an institution licensed pursuant to Article 28 of the Public Health Law. Respondent will advise the OPMC of all such settings over the period of probation.

(b) Respondent may not practice medicine until the supervised setting is approved by OPMC. Any practice of medicine prior to the submission and approval of a proposed practice setting will be considered a violation of probation.

(c) Respondent will identify an appropriate supervisor or administrator in all settings, to be approved by the OPMC, who will submit reports regarding the Respondent's overall quality of medical practice.

(d) Respondent will provide the supervisor/administrator in all settings, a copy of the Determination and Order and Terms of Probation and will authorize said supervisor/administrator, in writing, to comply with the OPMC schedules and requests for information.

(e) Semi-annual confirmation of continued employment will be required.

(f) A supervised setting is one where an approved supervisor or administrator is always on premises when Respondent is.

11. A third party monitor shall be present during all examinations and treatment of all female patients and in accordance with the following:

(a) Respondent will have a female third-party monitor present during all examinations and treatment of female patients by Respondent. This third-party monitor shall not be related to or intimately involved with Respondent. Any practice of medicine prior to the submission and approval of a proposed third-party monitor will be considered a violation of probation.

(b) Respondent will note on each patient's record, the name and title of the third-party practice monitor and have available all information necessary for the OPMC to confirm the above third-party monitoring.

12. All expenses, including but not limited to those of complying with these terms of probation and the Determination and Order, shall be the sole responsibility of the Respondent.

13. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the Order of the Board. A violation of any of these terms of probation shall be considered professional misconduct. On receipt of evidence of non-compliance or any other violation of the terms of probation, a violation of probation proceeding and/or such other proceedings as may be warranted, may be initiated against Respondent pursuant to New York Public Health Law §230(19) or any other applicable laws.