

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

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

Surendra M. Sharma, Physician
450 Gidney Avenue
Newburgh, N.Y. 12550

July 31, 1991

Re: License No. 135468

Dear Dr. Sharma:

Enclosed please find Commissioner's Order No. 11893. This Order goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order in your case is a revocation, surrender, or a actual suspension (suspension which is not wholly stayed) of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. Your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

If the penalty imposed by the Order in your case is a revocation or a surrender of your license, you may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after one year has elapsed from the effective date of the Order and the penalty; but said application is not granted automatically.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By:

GUSTAVE MARTINE
Supervisor

DJK/GM/er

CERTIFIED MAIL - RRR

cc: Wood & Scher, Esq.
The Harwood Building
Scarsdale, N.Y. 10583

REPORT OF THE
REGENTS REVIEW COMMITTEE

SURENDRA M. SHARMA

CALENDAR NO. 11893



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

SURENDRA M. SHARMA

No. 11893

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

REPORT OF THE REGENTS REVIEW COMMITTEE

SURENDRA M. SHARMA, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

This disciplinary proceeding was properly commenced and on four sessions from September 13, 1990 through October 25, 1990 a hearing was held before a hearing committee of the State Board for Professional Medical Conduct.

The hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which, including the statement of charges and excluding the appendix of names, is annexed hereto, made a part hereof, and marked as Exhibit "A".

The hearing committee concluded that respondent was guilty of the first through sixth specifications of the charges to the extent indicated in its report and recommended that respondent's license

SURENDRA M. SHARMA (11893)

to practice medicine in the State of New York be revoked.

The Commissioner of Health recommended to the Board of Regents that the findings of fact and conclusions of the hearing committee be accepted in full, and that its recommendation as to penalty also be accepted. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "B".

On May 17, 1991 respondent appeared before us in person and was represented by his attorney, William L. Wood, Jr., Esq., who presented oral argument on behalf of respondent. Cynthia M. Fascia, Esq., presented oral argument on behalf of the Department of Health.

Petitioner's written recommendation as to the measure of discipline to be imposed was revocation.

Respondent's written recommendation as to the measure of discipline to be imposed was not guilty and no penalty.

We have considered the record as transferred by the Commissioner of Health in this matter, as well as respondent's memorandum and Notice of Motion dated May 2, 1991 and petitioner's memorandum dated May 15, 1991.

Respondent's motion for an order dismissing all charges against respondent or, in the alternative, remanding this matter to reopen the hearing to permit additional witnesses is hereby denied. Respondent has failed to demonstrate that he has been

SURENDRA M. SHARMA (11893)

denied due process and a fair hearing, nor any other basis requiring the granting of such motion. Respondent has made no showing that he was denied the ability to call witnesses in his defense, nor that the testimony of such witnesses would result in a different hearing result.

In reaching this determination, we find no merit in respondent's contention that the allegations regarding Nurse C were without legal basis. We conclude, instead, that the record clearly establishes, by a preponderance of the evidence, that respondent's conduct was a knowing and deliberate attempt to influence Nurse C to credit respondent's intentionally false claim that she was present during the entire examination of Patient B and was not a legitimate attempt to have Nurse C "recall the facts that he believed to be true."

Additionally, there is no requirement that all hearing committee members be present during all hearing sessions. Due process concerns are met, so long as the transcripts are made available to any absent hearing committee members. See, Freyman v. Board of Regents, 102 A.D.2d 912, appeal dismissed 64 N.Y.2d 645, Laverne v. Sobol, 149 A.D.2d 758, Osher v. University of the State of New York, 162 A.D.2d 849.

We unanimously recommend the following to the Board of Regents:

1. The findings of fact of the hearing committee and the

SURENDRA M. SHARMA (11893)

Commissioner of Health's recommendation as to those findings be accepted;

2. The following additional findings of fact be accepted:

15(a). Respondent's physical contact with Patient A, as set forth in findings of fact numbered 13 and 15, was knowing, intentional and deliberate.

35(a). Respondent's physical contact with Patient B, as set forth in finding of fact numbered 35, was knowing, intentional and deliberate.

61a. Respondent knew at the time of his contact with Nurse C and at the time of the hospital investigation that Nurse C had not been present during the entire examination of Patient B and knowingly, intentionally and deliberately represented that she had been present during the entire examination.

3. The conclusions of the hearing committee as to guilt and the recommendation of the Commissioner of Health as to those conclusions be accepted;

4. Respondent be found guilty, by a preponderance of the evidence, of each specification of the charges to the extent indicated in the hearing committee's report;

SURENDRA M. SHARMA (11893)

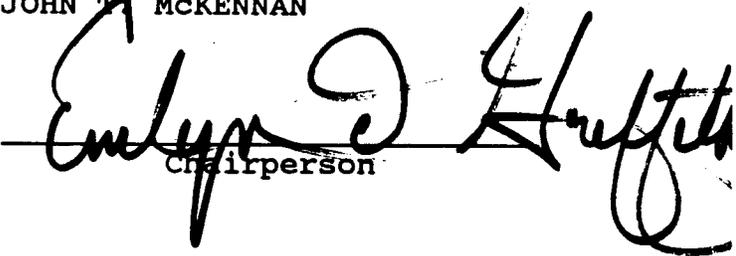
5. The recommendation of the hearing committee and the Commissioner of Health as to the measure of discipline be accepted; and
6. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which respondent has been found guilty as aforesaid.

Respectfully submitted,

EMLYN I. GRIFFITH

SIMON J. LIEBOWITZ

JOHN T. MCKENNAN


Chairperson

Dated:

July 15, 1991

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

-----X

IN THE MATTER :

OF :

SURENDRA SHARMA, M.D. :

-----X

REPORT OF THE

HEARING

COMMITTEE

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

Ms. Eugenia Herbst, Chairperson, Joseph K. Myers, Jr., M.D. and Michael R. Golding, M.D. duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health law, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. Michael P. McDermott, Esq., Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

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

SUMMARY OF PROCEEDINGS

Notice of Hearing and
Statement of Charges dated:

August 17, 1990

Hearing Dates:

September 13, 1990
September 25, 1990
October 18, 1990
October 25, 1990



Place of Hearing:

Ramada Inn
1055 Union Avenue
Newburgh, NY 12505
and
NYS Department of Health
Albany, New York

Deliberation Dates:

December 6, 1990 and
January 4, 1991

Petitioner Appeared by:

Peter J. Millock, Esq.
General Counsel
NYS Department of Health
By: Cindy Fascia, Esq.
Associate Counsel

Respondent Appeared by:

Neuman & Tamsen
400 Gidney Avenue
Newburgh, NY 12550
Peter H.X. Neuman, Esq.,
of Counsel

WITNESSES:

For the Petitioner:

1. Patient A
2. Patient A's mother
3. P [REDACTED] B [REDACTED]
4. Margaret Railey
5. Patient B
6. Eric Spooner, M.D.

For the Respondent:

1. George Tsoukatos
2. Eugene Benniezi
3. Surendra Sharma, M.D. (the Respondent)

STATEMENT OF CHARGES

The Statement of Charges alleges that the Respondent committed unprofessional conduct by his conduct in the practice of medicine which evidences moral unfitness to practice the profession by his willfully physically abusing two female patients and with professional misconduct by his practicing the profession of medicine fraudulently.

The charges are more specifically set forth in the Statement of Charges, a copy of which is attached hereto and made a part hereof.

FINDINGS OF FACT

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. The following Findings of Fact were reached by a unanimous vote of the Hearing Committee unless otherwise noted.

1. SURENDRA SHARMA, M.D., the Respondent, was authorized to practice medicine in New York State on August 14, 1978 by the issuance of License Number 135468 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, 1989 through December 31, 1991 from 450
Gidney Avenue, Newburgh, New York 12550.

FINDINGS AS TO PATIENT A

2. Patient A, at the time of her contact with the Respondent, was a thirteen year old girl who lived with her parents, her older brother, and her younger sister (Tr. 18, 55).

3. In June 1984, Patient A's family physician, Dr. Augusto LaTorre, suggested that Patient A have an echocardiogram (Pet. Ex. 4, pg. 7; Tr. 17, 79).

4. Patient A's appointment for the echocardiogram was scheduled for 11 a.m. on October 22, 1984 at the Cornwall Hospital (Tr. 19, 80).

5. When Patient A and her parents arrived at the Cornwall Hospital, they reported to the admitting clerk. They then met George Tsoukatos, the technician for the procedure (Tr. 19, 80).

6. Mr. Tsoukatos instructed Patient A to change from her street clothes into a hospital gown. Patient A went to a changing room and put on the hospital gown. She removed all of her own clothing except for her underpants and socks (Tr. 19, 20, 80, 81).

7. Patient A returned to the examining room. Eventually, the Respondent came in and introduced himself to

Patient A and her parents. Patient A and her parents had never met the Respondent prior to that day (Tr. 20, 79).

8. Patient A's mother and father were asked to leave the examining room during the procedure. They went outside the examining room and sat down in chairs in the hallway (Tr. 21, 81, 82).

9. The examining room had a door and a curtain which enclosed the examining area (Tr. 24, 36-38, 54).

10. The Respondent performed an echocardiogram on Patient A. When the echocardiogram was finished, Mr. Tsoukatos turned on the lights which had been dimmed during the procedure (Tr. 22).

11. When the echocardiogram was finished, Mr. Tsoukatos left the examining room and was leaving to go home. He told Patient A's mother that Patient A would be "a little longer" in the room (Tr. 23, 82-83).

12. The Respondent told Patient A to sit up and he checked her heart and the pulses in her neck. He then asked her to stand up and she did. He then told Patient A to squat on the floor, and she complied (Tr. 23, 410, 411).

13. While Patient A was squatting, the Respondent inserted his ungloved finger into Patient A's vagina (Tr. 23).

(2-1 vote of the Hearing Committee)

14. The Respondent then asked Patient A to lie down on the examining table. She complied. The Respondent lifted up Patient A's hospital gown and pulled her underwear down to her thighs (Tr. 23-24).

15. The Respondent inserted his ungloved finger into Patient A's vagina (Tr. 24).

16. The Respondent was not wearing any gloves when he inserted his finger into Patient A's vagina. Patient A saw the Respondent's hands during the examination and saw that he was ungloved (Tr. 62, 82, 103).

17. There was no medical purpose for the Respondent to have insert his finger into Patient A's vagina. There is no procedure that is a valid part of a cardiac examination or evaluation that requires a physician to insert his finger into a female patient's vagina (Tr. 338, 464).

18. When the Respondent inserted his finger into her vagina on this second occasion, Patient A cried out, "Ouch." She cried out because the the Respondent was inside of her and it hurt (Tr. 24, 62-63).

19. Patient A's mother, who was seated outside the examining room, heard her daughter cry out, "Ouch" (Tr. 83, 90).

20. Patient A did not mistake the sensation of the Respondent's finger being inside her vagina with the sensations associated with the taking of femoral pulses (Tr. 62-63).

21. Taking femoral pulses is not a painful procedure that would cause a patient to cry out "Ouch" or otherwise complain of pain. Also, Femoral pulses are not taken while a patient is squatting (Tr. 336-338).

22. Eventually, the Respondent called Patient A's parents back into the examining room. He told them that Patient A's heart murmur was slight, and that she would be able to engage in normal activities. Patient A went back to the changing area and got dressed (Tr. 25, 83-84).

23. Patient A and her mother went out into the waiting room while her father went back to talk to the Respondent. Patient A did not tell her mother what had happened at this time because there were "too many people around" and she was embarrassed (Tr. 25-26).

24. Late that evening, when everyone else but Patient A's mother had gone to sleep, Patient A tried to talk to her mother about what had happened (Tr. 26, 65, 84, 99-100).

25. The next day, Patient A specifically told her mother what had happened (Tr. 26, 65, 84, 99-100).

FINDINGS AS TO PATIENT B

26. Patient B is a thirty-two year old married woman who lives with her husband and her two sons (Tr. 187-189).

27. Patient B and her family live in Tupper Lake, New York. With the exception of a period in 1986, when Patient B and her husband moved to the Newburgh area, she has resided in the vicinity of Tupper Lake (Tr. 187-188).

28. On January 24, 1986, the Respondent examined Patient B at the Cornwall Hospital. Patient B had been admitted to Cornwall Hospital the previous evening with complaints of chest pains and weakness (Tr. 188; Dept. Ex. 6).

29. The Respondent saw Patient B for a cardiology consultation. Prior to this examination, Patient B had never met the Respondent and knew nothing about him (Tr. 190).

30. Patient B shared a hospital room with Mrs. P [REDACTED] B [REDACTED] during her stay at Cornwall Hospital. Patient B was in the bed closest to the door, and Mrs. B [REDACTED] was in the bed next to the window (Tr. 129, 191).

31. To allow for privacy, there were curtains that could be pulled around to completely enclose the individual beds (Tr. 130-131, 192).

32. When the Respondent came in to examine Patient B, he closed the curtains around her bed and pulled them open when he left (Tr. 131, 139, 192).

33. The Respondent came into Patient B's room, introduced himself, pulled the curtains and performed a physical

examination. He checked the muscle tone in Patient B's legs and felt for pressure points along her thigh (Tr. 193, 211).

34. Patient B had had prior cardiology examinations by other physicians. The Respondent's examination, up to this point, was similar to the heart evaluation examinations Patient B had in the past (Tr. 210-211).

35. The Respondent placed his hand on Patient B's pelvic area and inserted his finger into her vagina. The Respondent's hands were ungloved at the time (Tr. 194, 211-212).

36. In November 1980, Patient B underwent a total abdominal hysterectomy and a bilateral salpingo-oophorectomy at the General Hospital of Saranac Lake, Saranac Lake, New York (Ex. 9).

37. Since her hysterectomy, Patient B has experienced problems of dryness and tightness of her vagina. She was, therefore, aware that Respondent had penetrated her vagina with his finger (Tr. 197).

38. Patient B was certain that the Respondent had inserted his ungloved finger into her vagina (Tr. 217).

39. There is no procedure that is a valid part of a cardiac examination or evaluation that requires a physician to insert his finger into a female patient's vagina (Tr. 338, 464).

40. Patient B did not say anything to the Respondent when he inserted his finger into her vagina because she was not

sure if it was a valid part of the examination and she did not want to embarrass the Respondent if he was doing something he was supposed to do (Tr. 210, 213).

41. Immediately after the Respondent left the room, Patient B turned to her roommate, P [REDACTED] B [REDACTED] and told her that the Respondent had inserted his finger in her vagina and that he had not been wearing any gloves at the time (Tr. 131-132; 139-140).

42. Patient B asked Mrs. B [REDACTED] what she should do. Mrs. B [REDACTED] told her that if she thought something was improper she should report it (Tr. 140-141, 196).

43. Patient B reported the incident to Cornwall Hospital personnel (Tr. 140-141, 196, 200-201).

44. At the time that Patient B first questioned the Respondent's actions, she was scheduled for further testing by the Respondent. She went through with the scheduled stress test because there were other persons present and she also wanted to find out what was causing her physical problems (Tr. 195, 214-218, 221-222; Dept. Ex. 6).

45. Patient B has never made a complaint of this nature about any other physician (Tr. 221).

FINDINGS AS TO NURSE C

46. Nurse C was employed as a registered nurse by Cornwall Hospital from 1970 until her retirement in 1988. In January 1986, she was a full-time staff nurse, working the 7 a.m. to 3 p.m. shift (Tr. 148-149).

47. Nurse C was the primary care nurse for Patient B on the day that the Respondent examined Patient B (Tr. 150).

48. The policy at Cornwall Hospital did not require nurses to accompany physicians on a consultation unless the physician specifically requested the nurse's presence. If the physician did not ask the nurse to remain while he examined the patient, the nurse was free to leave and take care of other patients (Tr. 150).

49. Nurse C entered Patient B's room with the Respondent. She stayed in the room for a while and took Patient B's blood pressure. Nurse C then left the room, leaving the Respondent with Patient B (Tr. 151-152, 192-193).

50. When Nurse C left the room, the curtains were still drawn around Patient B's bed (Tr. 151-152, 161).

51. Patient B did not tell Nurse C directly about the alleged incident involving the Respondent. Instead, Patient B told Nurse C that she wanted to see a supervisor and eventually someone was sent in to talk to Patient B (Tr. 150-151, 205, 214, 217).

52. The Respondent approached Nurse C on several occasions during her shifts at Cornwall Hospital and repeatedly told her that she was present during his entire examination of Patient B (Tr. 151-155, 166-167).

53. The Respondent wanted Nurse C to say that she had been in Patient B's room during the entire time that he was there with the patient (Tr. 151-155, 166-167).

54. Nurse C told the Respondent that she was not in the room the entire time and that she would not lie (Tr. 152).

55. The Respondent called Nurse C twice at her home in the evening to talk to her again about this very same matter. (Tr. 168).

56. Prior to these telephone calls from the Respondent, Nurse C had never received any telephone call at home from any other physician at the Cornwall Hospital during all the years she worked there. She thought it was strange for the Respondent to call repeatedly about this matter and discussed the telephone calls with her husband and her son (Tr. 168).

57. Nurse C felt that the conversation and telephone calls from the Respondent constituted harassment and she reported the incidents to her supervisors (Tr. 155-156, 168).

58. Nurse C was told by the Cornwall Hospital administration that the Respondent would be spoken to and that he would not bother her any more about this matter (Tr. 156).

59. The Cornwall Hospital investigated Patient B's allegations. During the course of this investigation both the Respondent and Nurse C were interviewed about the alleged incident (Tr. 115-116).

60. The Respondent told the Cornwall Hospital investigators that Nurse C had been present during his entire examination of Patient B. Nurse C told the investigators that she was in the room for only part of the time. She told them that she came in the room, took several blood pressures on Patient B, and then left while the Respondent was still in the room with Patient B (Tr. 115-118).

61. Nurse C was not present in the room for the entire examination. She was there only part of the time. When she left the, Respondent was in the room with Patient B and the curtains were drawn around Patient B's bed (Tr. 151-153, 192-193).

62. Prior to the incident with Patient B, Nurse C and Respondent had had a good working relationship (Tr. 149).

CONCLUSIONS

The following conclusions were reached by a unanimous vote of the Hearing Committee unless otherwise noted.

It seems incredible to the Hearing Committee that two entirely different unrelated groups ((1) Patient A and her mother, (2) Patient B, P [REDACTED] B [REDACTED] and Nurse C) would concoct incidents which were so similar in nature.

The Hearing Committee is convinced that Patient A and her mother, Patient B and her hospital roommate, P [REDACTED] B [REDACTED], and Nurse C were all very credible witnesses.

The testimony of Patient A and her mother did contain some minor inconsistencies but this is to be expected when two individuals are testifying about an incident which occurred more than six years ago. In fact, their testimony indicated that they were independent recollections of the same event and were not contrived. In the opinion of the Hearing Committee, this added to the credibility of these witnesses.

Patient B was forthright and consistent in her testimony and was careful to distinguish between what she could and could not remember. Also, her testimony was corroborated by P [REDACTED] B [REDACTED] and Nurse C. Patient B had no evident motive or discernible gain in accusing the Respondent and in no way comported herself as one seeking revenge.

P [REDACTED] B [REDACTED]'s testimony was very straightforward. She was an uninvolved witness to the events about which she testified.

Nurse C was also a credible witness. Prior to the incident with Patient B, Nurse C and the Respondent had a good working relationship and she did not appear to the Hearing Committee to have exaggerated or overreacted to the Respondent's contacts with her about the incident involving Patient B.

It appeared to the Hearing Committee that George Tsokatos' testimony was too glib and detailed for an event that occurred six years ago and seemed to have little significance at that time. Mr. Tsokatos and the Respondent have had a long association. The Respondent is the attending physician for Mr. Tsokatos' ill mother and the Respondent has provided job references for Mr. Tsoukatos on many occasions. As a witness, Mr. Tsoukatos seemed to be inclined to put things in the best possible light for the Respondent.

In addition, the Hearing Committee does not believe Mr. Tsoukatos' testimony concerning his contacts and conversations with the Respondent relative to the District Attorney's investigation in 1984 and the New York State Health Department's investigation in 1986 regarding the incidents involving Patient A.

Mr. Tsoukatos testified that he spoke to the Respondent about the District Attorney's investigation only "in passing"; that he ran into the Respondent and probably mentioned the Health Department's investigation, and that he did not know of the hospital's internal investigation. Given the closeness of their relationship and the seriousness of the allegations against the Respondent, Mr. Tsoukatos' testimony regarding these contacts and conversations is just not credible.

The Respondent's testimony was polished and consistent but was not convincing in light of the credible contradictory testimony of Patient A, Patient A's mother, Patient B, P [REDACTED] B [REDACTED] and Nurse C.

CONCLUSIONS AS TO PATIENT A

The Hearing Committee concludes that on or about October 22, 1984, the Respondent performed an echocardiogram on Patient A. During the course of this examination, without any medical purpose, inserted his ungloved finger into Patient A's vagina on two occasions. (The Hearing Committee's conclusion was reached by a 2-1 vote as to the first occasion and by a 3-0 vote as to the second occasion.)

CONCLUSIONS AS TO PATIENT B

The Hearing Committee also concludes that on or about January 24,, 1986, the Respondent performed a cardiology consultation on Patient B. During the course of this consultation the Respondent, without any medical purpose, inserted his ungloved finger into Patient B's vagina.

CONCLUSIONS AS TO NURSE C

The Hearing Committee is convinced that the Respondent tried to capitalize on his position and his good relationship with Nurse C and tried to pressure her into saying that she had been present in the room during the Respondent's entire examination of Patient B. When Nurse C told the Respondent that she would not lie for him he continued to harass her, both at work and at home, until it reached the point where she spoke to her supervisors about it.

The Hearing Committee rejects the Respondent's explanations regarding his contacts with Nurse C and concludes that:

- a. The Respondent told the Cornwall Hospital personnel investigating the incident that Nurse C had been present during his entire examination of Patient B despite the

fact that Nurse C was present for only part of the examination.

- b. The Respondent approached Nurse C and told her that she would be asked about his examination of Patient B. He then told Nurse C that she was present during the entire examination despite the fact that she was present for only part of the examination.
- c. The Respondent approached Nurse C on several occasions during her shifts at Cornwall Hospital and repeatedly told her that she was present during his entire examination of Patient B despite the fact that she was present for only part of the examination.

The Hearing Committee votes unanimously (3-0) as follows:

First through Third Specifications - SUSTAINED, except as to those facts specified in Paragraph C3 which was withdrawn, and Paragraph C4 which is NOT SUSTAINED.

Fourth and Fifth Specifications - SUSTAINED.

Sixth Specification - SUSTAINED, except as to those facts specified in Paragraph C3, which was withdrawn, and Paragraph C4 which is NOT SUSTAINED

RECOMMENDATION

The overwhelming weight of the credible evidence in this case indicates that the Respondent committed the violations as alleged. His complete denial of any wrongdoing in the face of such evidence indicates total unrepentance and no likelihood of redemption.

The Hearing Committee recommends unanimously (3-0) that the Respondent's license to practice medicine in New York State be REVOKED.

DATED: New York, New York
February 1, 1991

Respectfully submitted,



EUGENIA HERBST, CHAIRPERSON

Joseph K. Myers, Jr., M.D.
Michael R. Golding, M.D.

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

-----X

IN THE MATTER : STATEMENT
OF : OF
SURENDRA SHARMA, M.D. : CHARGES

-----X

SURENDRA SHARMA, M.D., the Respondent, was authorized to practice medicine in New York State on August 4, 1978 by the issuance of license number 135468 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, 1989 through December 31, 1991 from 450 Gidney Avenue, Newburgh, New York 12550.

FACTUAL ALLEGATIONS

- A. Respondent, on or about October 22, 1984, performed an echocardiogram on Patient A (Individuals denominated by letter are identified in the Appendix) at the Cornwall Hospital, Laurel Avenue, Cornwall, New York (hereinafter "Cornwall Hospital"). Respondent, during the course of this appointment, without any medical purpose inserted his ungloved finger into Patient A's vagina two times.

B. Respondent, on or about January 24, 1986, performed a cardiology consultation on Patient B at the Cornwall Hospital. Respondent, during the course of this consultation, without any medical purpose inserted his ungloved finger into Patient B's vagina.

C. Respondent, subsequent to the incident with Patient B described above, and during the time said incident was being investigated by the Cornwall Hospital, engaged in the following acts:

1. Respondent told the Cornwall Hospital personnel investigating the incident that Nurse C had been present during Respondent's entire examination of Patient B, despite the fact that Nurse C was not present during the entire examination.
2. Respondent approached Nurse C and told her that she would be asked about Respondent's examination of Patient B. Respondent then told Nurse C that she was present during his entire examination of Patient B, despite the fact that Nurse C was not present during the entire examination.
3. Respondent told Nurse C not to tell anyone he had talked to her.
4. Respondent called Nurse C in the evening at her home, and asked her what she had told the Cornwall Hospital personnel who were investigating the incident with Patient B.
5. Respondent approached Nurse C on several occasions during her shifts at Cornwall Hospital and repeatedly told her that she was present during his entire examination of Patient B, despite the fact that Nurse C was not present during the entire examination.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD SPECIFICATIONS

CONDUCT EVIDENCING MORAL UNFITNESS

Respondent is charged with committing unprofessional conduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(5) (1987) by his conduct in the practice of the profession which evidences moral unfitness to practice the profession, in that the State Board for Professional Medical Conduct hereinafter "Petitioner" charges:

1. The facts in Paragraph A.
2. The facts in Paragraph B.
3. The facts in Paragraph C and C.1 and/or C.2, and/or C.3, and/or C.4, and/or C.5.

FOURTH AND FIFTH SPECIFICATIONS

WILLEFULLY ABUSING A PATIENT PHYSICALLY

Respondent is charged with committing unprofessional conduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.2(a)(2) (1987) by his willfully abusing a patient physically in that Petitioner charges:

4. The facts in Paragraph A.
5. The facts in Paragraph B.

SIXTH SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) by his practicing the profession of medicine fraudulently in that

Petitioner charges:

6. The facts in Paragraph C and C.1 and/or C.2, and/or C.3, and/or C.4, and/or C.5.

DATED: Albany, New York
August 17, 1990

Peter D. Van Buren

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

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

-----X
IN THE MATTER :
OF :
SURENDRA SHARMA, M.D. :
-----X

COMMISSIONER'S
RECOMMENDATION

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

A hearing in the above-entitled proceeding was held on September 13, 1990, September 25, 1990, October 18, 1990 and October 25, 1990. Respondent, Surendra Sharma, M.D., appeared by Peter H. X. Neuman, Esq. The evidence in support of the charges against the Respondent was presented by Cindy Fascia, Esq.

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

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

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

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

DATED: Albany, New York
March 22, 1991


LINDA RANDOLPH, M.D., Director
Office of Public Health

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

SURENDRA M. SHARMA

CALENDAR NO. 11893



The University of the State of New York

IN THE MATTER

OF

SURENDRA M. SHARMA
(Physician)

DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 11893

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 11893, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (July 26, 1991): That, in the matter of SURENDRA M. SHARMA, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The findings of fact of the hearing committee and the Commissioner of Health's recommendation as to those findings be accepted;
2. The following additional findings of fact be accepted:
 - 15(a). Respondent's physical contact with Patient A, as set forth in findings of fact numbered 13 and 15, was knowing, intentional and deliberate.
 - 35(a). Respondent's physical contact with Patient B, as set forth in finding of fact numbered 35, was knowing, intentional and deliberate.
 - 61a. Respondent knew at the time of his contact with Nurse C and at the time of the hospital investigation that Nurse C had not

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been present during the entire examination of Patient B and knowingly, intentionally and deliberately represented that she had been present during the entire examination.

3. The conclusions of the hearing committee as to guilt and the recommendation of the Commissioner of Health as to those conclusions be accepted;
4. Respondent is guilty, by a preponderance of the evidence, of each specification of the charges to the extent indicated in the hearing committee's report;
5. The recommendation of the hearing committee and the Commissioner of Health as to the measure of discipline be accepted; and
6. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which respondent has been found guilty as aforesaid;

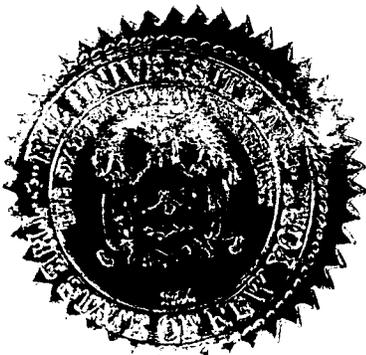
and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

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

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

IN WITNESS WHEREOF, I, Thomas Sobol,
Commissioner of Education of the State of
New York, for and on behalf of the State
Education Department and the Board of
Regents, do hereunto set my hand and affix
the seal of the State Education Department,
at the City of Albany, this 26th day of
July, 1991.



Commissioner of Education