



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

November 15, 2000

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Richard J. Zahnleuter, Esq.  
NYS Department of Health  
433 River Street – 5<sup>th</sup> Floor  
Troy, New York 12180

Jean Moise Millien, R.P.A.  
Brooklyn Health Medical Group, P.C.  
1183 Broadway  
Brooklyn, New York 12211

Isaac Okoro, Esq.  
168-36 Jamaica Avenue  
Jamaica, New York 11432

Jean Moise Millien, R.P.A.  
c/o Shennelle Benson  
1720 Bedford Avenue  
Apartment 15C  
Brooklyn, New York 12211

**RE: In the Matter of Jean Moise Millien, R.P.A.**

Dear Parties:

Enclosed please find the Determination and Order (No. 00-314) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

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 penalties other than suspension or revocation 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.

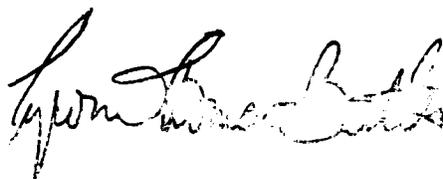
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

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, appearing to read "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**

**COPY**

**IN THE MATTER**

**OF**

**JEAN MOISE MILLIEN, R.P.A.**

**DECISION  
AND  
ORDER  
OF THE  
HEARING COMMITTEE**

**ORDER NO.**

**BPMC 00- 314**

The undersigned Hearing Committee consisting of **DENISE BOLAN RPA**, Chairperson, **ELEANOR KANE, M.D.**, and **TERESA BRIGGS, M.D., PhD.** was duly designated and appointed by the State Board for Professional Medical Conduct. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as Administrative Officer.

The hearing was conducted pursuant to the provisions of Section 230-b and 230(12) of the New York State Public Health Law and Sections 301-307 and 401 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of provisions of Section 6530 of the New York Education Law by **JEAN MOISE MILLIEN, R.P.A.** (hereinafter referred to as "Respondent").

The New York State Board For Professional Medical Conduct (hereinafter referred to as the State or Petitioner) appeared by **HANK GREENBERG, ESQ.**, General Counsel, New York State Department of Health (hereinafter referred to as DOH). **RICHARD J. ZAHNLEUTER, ESQ.**, Associate Counsel, Medical Fraud Unit, Bureau of Professional Medical Conduct of counsel. Respondent appeared in person and by **ISAAC OKORO, ESQ.**

A stenographic record of the pre-hearing conference was made. Exhibits were received in evidence and made a part of the record. There were motions and briefs which are all part of the record herein whether submitted to the Trier of Fact or not.

The Committee has considered the entire record in the above captioned matter and hereby renders its decision.

**RECORD OF PROCEEDING**

Notice of Hearing returnable:	April 28, 2000
Location of Hearing:	Conducted by Conference Call
Respondent's answer dated / served:	N/A
The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner" or "The State") appeared by:	<b>HENRY M. GREENBERG, ESQ.</b> General Counsel by <b>RICHARD J. ZAHNLEUTER, ESQ.</b> Associate Counsel, Medical Fraud Unit Office of Professional Medical Conduct Albany, New York 12237
Respondent appeared in person and was represented by counsel.	<b>ISAAC OKORO, ESQ.</b> 168-36 Jamaica Ave. Jamaica, NY 11432
Address of Respondent's practice: <sup>1</sup>	Brooklyn Health Medical GRP, P.C. 1183 Broadway Brooklyn, NY 12211
Respondent's License:	Number: 003566-1 Registration Date: July 25 1988
Pre-Hearing Conference Held:	May 18, 2000
Hearings held on:	Default
Conferences held on:	April 13, April 24, May 18
Closing briefs received:	State Submitted July 12, 2000
Record closed:	August 3, 2000
Date of Deliberation:	August 3, 2000 by Conference Call

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<sup>1</sup>Respondent's official address remains The Brooklyn Health Medical Group. However, counsel for the State has notified the Administrative Law Judge that Respondent is residing at 1720 Bedford Ave. This decision and Order will be sent to both addresses.

## SUMMARY OF PROCEEDINGS

The Statement of Charges in this proceeding alleges thirteen ground of misconduct:

1. In the First Specification, Respondent is charged with medical misconduct by **OBTAINING HIS LICENSE FRAUDULENTLY**, in violation of New York Education Law §6530(1);
2. In the Second Specification, Respondent is charged with medical misconduct by **PRACTICING THE PROFESSION FRAUDULENTLY OR BEYOND ITS AUTHORIZED SCOPE**, in violation of New York Education Law §6530(2);
3. In the Third Specification, Respondent is charged with medical misconduct by **PRACTICING THE PROFESSION WITH NEGLIGENCE ON MORE THAN ONE OCCASION**, in violation of New York Education Law §6530(3);
4. In the Fourth Specification, Respondent is charged with medical misconduct by **PRACTICING THE PROFESSION WITH GROSS NEGLIGENCE ON A PARTICULAR OCCASION**, in violation of New York Education Law §6530(4);
5. In the Fifth Specification, Respondent is charged with medical misconduct by **PRACTICING THE PROFESSION WITH GROSS INCOMPETENCE ON MORE THAN ONE OCCASION**, in violation of New York Education Law §6530(5);
6. In the Sixth Specification, Respondent is charged with medical misconduct by **PRACTICING THE PROFESSION WITH GROSS INCOMPETENCE**, in violation of New York Education Law §6530(6);
7. In the Seventh Specification, Respondent is charged with medical misconduct by **CONDUCT IN THE PRACTICE OF MEDICINE WHICH EVIDENCES MORAL UNFITNESS TO PRACTICE MEDICINE**, in violation of New York Education Law §6530(20);
8. In the Eighth Specification, Respondent is charged with medical misconduct by **WILLFULLY MAKING OR FILING A FALSE REPORT, OR FAILING TO FILE A REPORT REQUIRED BY LAW OR BY THE DEPARTMENT OF HEALTH OR THE EDUCATION DEPARTMENT OR WILLFULLY IMPEDING OR OBSTRUCTING SUCH FILING, OR INDUCING ANOTHER PERSON TO DO SO**, in violation of New York Education Law §6530(21)
9. In the Ninth Specification, Respondent is charged with medical misconduct by **PRACTICING OR OFFERING TO PRACTICE BEYOND THE SCOPE PERMITTED BY LAW, OR ACCEPTING AND PERFORMING**

**PROFESSIONAL RESPONSIBILITIES WHICH THE LICENSEE KNOWS OR HAS REASON TO KNOW THAT HE OR SHE IS NOT COMPETENT TO PERFORM, OR PERFORMING WITHOUT ADEQUATE SUPERVISION PROFESSIONAL SERVICES WHICH THE LICENSEE IS AUTHORIZED TO PERFORM ONLY UNDER THE SUPERVISION OF A LICENSED PROFESSIONAL**, in violation of New York Education Law §6530(24);

10. In the Tenth Specification, Respondent is charged with medical misconduct by **FAILING TO RESPOND WITHIN THIRTY DAYS TO WRITTEN COMMUNICATIONS FROM THE DEPARTMENT OF HEALTH AND TO MAKE AVAILABLE ANY RELEVANT RECORDS WITH RESPECT TO AN INQUIRY OR COMPLAINT ABOUT THE LICENSEE'S PROFESSIONAL MISCONDUCT**, in violation of New York Education Law §6530(28);
11. In the Eleventh Specification, Respondent is charged with medical misconduct by **FAILING TO MAINTAIN A RECORD FOR EACH PATIENT WHICH ACCURATELY REFLECTS THE EVALUATION AND TREATMENT OF THE PATIENT**, in violation of New York Education Law §6530(32);
12. In the Twelfth Specification, Respondent is charged with medical misconduct by **ORDERING OF EXCESSIVE TREATMENT NOT WARRANTED BY THE CONDITION OF THE PATIENT**, in violation of New York Education Law §6530(35)
13. In the Thirteenth Specification, Respondent is charged with medical misconduct by **FAILING TO COMPLY WITH ANY AGREEMENT ENTERED INTO TO AID HIS OR HER MEDICAL EDUCATION**, in violation of New York Education Law §6530(42)

The allegations are more particularly set forth in the Statement of Charges which is attached hereto as Appendix One.

Petitioner called no witnesses.

Respondent defaulted and called no witnesses.

#### **SIGNIFICANT LEGAL RULINGS:**

On May 18, 2000, a pre-hearing conference was held in this matter. The State appeared as did Respondent and his attorney. As will be more fully developed below, at the time of the pre-hearing conference, Respondent had been granted adjournments and other courtesies.

The parties informed the Administrative Law Judge that a settlement had been reached. This settlement was acknowledged in a letter dated May 26, 2000.<sup>2</sup> The terms were specified, and were said by counsel for Respondent to be acceptable and agreeable. Respondent and counsel promised, in writing, to execute and return the appropriate settlement papers in accordance with a prescribed schedule as soon as the State could prepare the settlement papers and deliver them.

In a letter dated July 12, the State informed the Administrative Law Judge that Respondent had not fulfilled his promise to sign and return the settlement papers. At that date, the documents were more than four weeks overdue.

In the July 12 letter, the State made a motion that:

1. Respondent be held in default for failure to appear at the proceeding as scheduled;
2. The allegations and specifications set forth in the Statement of Charges be deemed admitted in their entirety;
3. The factual allegations in the Statement of Charges be deemed findings of fact and conclusions of law;
4. The hearing committee impose a penalty consisting of revocation and a substantial monetary fine in an amount the hearing committee deemed warranted by the evidence.

The Administrative Law Judge finds these procedural findings of fact:

1. On April 4/2000, a Notice of Hearing and Statement of Charges were served on Respondent. The first day of hearing was scheduled for April 28,2000.
2. On April 7, 2000, a Pre-hearing conference was scheduled for April 17, 2000.
3. On April 12, 2000, Respondent's counsel requested an adjournment of the April 17, 2000 pre-hearing conference.
4. On April 13, 2000, the April 17, 2000 pre-hearing conference was adjourned. A scheduling conference scheduled for April 24, 2000.
5. On April 24, 2000, a scheduling conference was held. A new pre-hearing conference was set for May 18, 2000. The first day of hearing was adjourned to June 2, 2000.

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<sup>2</sup> The letter of May 26, 2000 from Mr. Zahnleuter to Mr. Okoro is received as Administrative Law Judge Exhibit 101 in evidence.

6. On May 18, 2000, a Pre-hearing conference was held in Troy. Respondent and Respondent's counsel attended. Settlement discussions occurred. While the parties indicated settlement had been reached, a further pre-hearing conference was scheduled for May 26, 2000. The purpose of the May 26 conference was to admit documentary evidence in preparation for trial, if settlement was not achieved by May 26, 2000. This Pre-hearing conference was recorded and transcribed.
7. On May 26, 2000, Respondent and Respondent's counsel did not appear at the pre-hearing conference. Later that day, settlement discussions occurred by telephone. The State required Respondent and Respondent's counsel to acknowledge, in writing, that the settlement terms specified in the letter, dated May 26, 2000, were acceptable and agreeable. Respondent promised, in writing, to sign and return the appropriate settlement papers in accordance with a prescribed schedule as soon as the settlement papers could be prepared. The first day of hearing was adjourned in contemplation of settlement.
8. On June 2, 2000, Settlement papers were delivered to Respondent's counsel. The deadline for return of the executed settlement was established as June 8, 2000.
9. The Settlement documents were not returned on June 8. To date, there has been no further contact by Respondent or counsel.

Based upon the conduct described above, the Administrative Law Judge granted the State's motions.

In so ruling, the Administrative Law Judge notes Respondent was granted adjournments to provide time to obtain counsel. Respondent was granted adjournments to fully execute a settlement. Respondent was represented by Counsel. Respondent has violated the terms of the final adjournment. Respondent has ignored the rulings of the Administrative Law Judge and the statutory provisions of the Public Health Law.

Having found Respondent is in default, it follows the charges and specifications are admitted by Respondent with the same force and effect as if the charges and specifications had been sustained by the Committee after an evidentiary hearing.

All documents offered by the State were received in evidence. A list of these documents is attached to this Decision and Order as Appendix Two. Respondent had previously been given a copy of all documents. Having failed to participate in this proceeding, Respondent has waived any right to object to any document offered by the State. In light of the ruling by the Administrative Law Judge, only the following documents were distributed to the Committee:

Exhibit 1      Notice of Hearing

Exhibit 2	Statement of Charges
Exhibit 3	Affidavit of Service of Notice of Hearing and Statement of Charges
Exhibit 35	Resume of Expert Dawn Morton-Rias, P.D., PA-C.
Exhibit 36	Expert Report of Dawn Morton-Rias, P.D., PA-C.

Respondent's counsel was sent a copy of the July 12 correspondence between the State and the Administrative Law Judge. On July 13, Respondent's counsel was notified that Respondent was in default and that Respondent's closing arguments, proposed findings of fact and proposed instructions must be submitted by July 28, 2000. Respondent has filed no answer and has not acknowledged the latest developments in any way.

The Administrative Law Judge conferred with the members of the Committee and disclosed the facts stated above to them. The Committee was told that the Administrative Law Judge ruled Respondent was in default because he had failed to fully participate in the proceedings. The Committee was further instructed that upon a finding of default, each of the Specifications in the Notice of Hearing and Statement of Charges (see Exhibits 1 and 2) were deemed admitted by Respondent with the same force and effect as if the Committee had made the findings after an evidentiary hearing. Likewise, all statements of fact and the charges themselves, which were alleged in the Statement of Charges (Exhibit 2), were admitted by Respondent with the same force and effect as if the Committee had made the findings after an evidentiary hearing.

## **FINDINGS OF FACT**

### **GENERAL FACTUAL ALLEGATIONS**

1. Respondent, was authorized to perform medical services as a registered physician assistant in New York State on July 25, 1988 by the issuance of license number 003566-1 by the New York State Education Department. Respondent's current address, upon information and belief, is Brooklyn Health Medical GRP, P.C., 1183 Broadway, Brooklyn, NY 12211.

2. Respondent, is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law, pursuant to Section 230-b of the New York Public Health Law.

### **FACTUAL ALLEGATIONS RELATING TO CHARGES**

1. On or about January 30, 1985, Respondent was indicted in Suffolk County Court for criminal possession of a weapon, second degree, and criminal mischief, second degree, based on an April 21, 1984 arrest. On or about June 11, 1985, Respondent pled guilty to, and was convicted of, a reduced misdemeanor charge of criminal possession of a weapon, fourth degree.
2. On or about March 24, 1988, Respondent applied to the New York State Education Department for licensure as a registered physician assistant. In response to the questions, "Have you ever been convicted of a crime (felony or misdemeanor) in any state or any country," Respondent answered, "No." In response to the question, "Have you ever been charged with a crime (felony or misdemeanor) in any state or country, the disposition of which was other than by acquittal or dismissal," the Respondent answered, "No."
3. On or about August 22, 1989, a certificate of incorporation for Stuyvesant Heights Medical Group, P.C., a professional medical corporation organized in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was filed with the New York State Department of State.
4. MD #1<sup>3</sup> was one of the physicians who, in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was an original shareholder, director and officer of Stuyvesant Heights Medical Group, P.C.

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<sup>3</sup>To preserve privacy throughout this document, registered physician assistants (RPA) and physicians (MD) are referred to by numerical designation, and patients are referred to by letter designation. An Appendix is attached to the Statement of Charges for appropriate recipients.

5. The Respondent entered into a management services agreement under which the Respondent provided management, supervisory, and administrative services, including billing, collection, and staffing services, to Stuyvesant Heights Medical Group, P.C.
6. By 1991, MD #1 relinquished to the Respondent all oversight, involvement, and participation in the operation of Stuyvesant Heights Medical Group, P.C., and the Respondent, contrary to the provisions of Sections 1503(a) and 1504(a) of the New York Business Corporation Law, exclusively continued to carry on the business of Stuyvesant Heights Medical Group, P.C.
7. On or about April 26, 1993, the Respondent submitted an application for hospital privileges at St. Mary's Hospital. In response to the question, "Have you ever been the subject of a criminal investigation and/or have there ever been any criminal charges brought against you," the Respondent answered, "No." In response to the question, "Have you ever been convicted of a crime," the Respondent answered, "No."
8. On or about July 20, 1994, the Respondent was held in default of his New York State Higher Education Assistance Services Corporation student loan. Judgment in the amount of \$19,752.12 was rendered against him. Upon information and belief, the Respondent has not satisfied the Judgment.
9. On or about April 26, 1996, the Respondent posed as a physician, MD #2, who previously had ceased employment with Stuyvesant Heights Medical Group, P.C., used MD #2's "personal identification number" to order 1,919 doses of free vaccines for immunizations from the New York State Department of Health Immunization Program's "Vaccines for Children" Program, and had the vaccines delivered to himself.
10. On or about February 9, 1996, a certificate of incorporation for Primary Care Extenders, Inc., was filed with the New York State Department of State.

11. Respondent was the President and Chief Executive Officer of Primary Care Extenders, Inc. The function of Primary Care Extenders, Inc., was to provide management, supervisory, and administrative services, including staffing, billing, and collection services, to professional medical corporations.
12. On or about November 1, 1996, a certificate of incorporation for Brooklyn Health Medical GRP, P.C., a professional medical corporation organized in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was filed with the New York State Department of State.
13. MD #3 and MD #4 were the physicians who, in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, were the original shareholders, directors and officers of Brooklyn Health Medical GRP, P.C.
14. The Respondent, through Primary Care Extenders, Inc., thereafter entered into a management services agreement under which the Respondent provided management, supervisory, and administrative services, including billing, collection, and staffing services, to Brooklyn Health Medical GRP, P.C.
15. By the beginning of 1997, MD #3 and MD #4 relinquished to the Respondent all oversight, involvement, and participation in the operation of Brooklyn Health Medical GRP, P.C., and the Respondent, contrary to Sections 1503(a) and 1504(a) of the New York Business Corporation Law, exclusively continued to carry on the business of Brooklyn Health Medical GRP, P.C.
16. On or about May 7, 1997, the Respondent submitted an application for hospital privileges at Western Queens Community Hospital. In response to the question, "Have there ever been any criminal charges brought against you," the Respondent answered, "No."
17. Between approximately July 1997 and July 1999, and at other times, the Respondent provided care as a registered physician assistant at Brooklyn Health Medical GRP, P.C., without being supervised by a physician.

18. On or about February 23, 1998, the Respondent hired RPA #1 to work for Brooklyn Health Medical GRP, P.C., under the supervision of MD #3, even though MD #3 had long since relinquished all oversight, involvement, and participation in the operation of Brooklyn Health Medical GRP, P.C. Between February 23, 1998 and March 27, 1998, which was when RPA #1 resigned, the Respondent required RPA #1 to work at Brooklyn Health Medical GRP, Inc., without supervision by a physician.
19. On or about November 16, 1998, the Respondent again posed as the same physician, MD #2, who had previously ceased employment with Stuyvesant Heights Medical Group, P.C., used the physician's "personal identification number" to order 1,150 doses of free vaccines for immunizations from the New York State Department of Health Immunization Program's "Vaccines for Children" Program, and had the vaccines delivered to himself.
20. In or about March 21, 1998 through August 1, 1998, the Respondent billed a third party insurer, Fidelis, for care for approximately 38 patients representing approximately 99 patient contacts at Brooklyn Health Medical GRP, P.C., under the name of MD #5 even though MD #5 had not had any oversight, involvement, or participation in the operation of Brooklyn Health Medical GRP, P.C., since in or about January 1997.
21. In or about July and October 1998, the Respondent billed two third party insurers, Empire Blue Cross and Blue Shield, and Medicaid, for care for Patients A, B, C, D, E, F, and G at a Brooklyn Health Medical GRP, P.C., clinic at 1183 Broadway in Brooklyn under the name of MD #6 even though MD #6 had no oversight, involvement, or participation in the operation of a Brooklyn Health Medical GRP, P.C., clinic at 1183 Broadway in Brooklyn.
22. On or about August 5, 1998, September 29, 1998, October 3, 1998, and November 7, 1998, the Respondent provided care to Patients H, I, J, and K and billed a third party insurer, Genesis, under the name of MD #7, even though MD #7 had not had any oversight, involvement, or participation in the operation of Brooklyn Health Medical GRP, P.C., since in or about January 1998.

23. On or about September 24, 1998, October 31, 1998, and March 31, 1999, the Respondent provided care to Patient L. On or about March 31, 1999, the Respondent billed a third party insurer, GHI, for care for Patient L on these dates under the name of MD #3 and Stuyvesant Heights Medical GRP, P.C., even though MD #3 had no oversight, involvement, or participation in the operation of Stuyvesant Heights Medical Group, P.C., since in or about 1991, and even though, on or about March 23, 1994, by proclamation of the Secretary of State of the State of New York, Stuyvesant Heights Medical Group, P.C., was dissolved for tax delinquency reasons by the Secretary of State pursuant to Section 203-A of the New York Tax Law.
24. The Respondent billed a third party insurer, 1199 National Benefit Fund, for care for approximately 25 patients at the reimbursement rate for a physician instead of the lower physician assistant rate since in or about January 1, 1997.
25. On or about July 27, 1999, in an interview pursuant to Section 230(10)(a)(iii) of the New York Public Health Law, the Respondent admitted to a second incident of having been arrested; namely, for discharging a rifle outside of his mother's home in Brooklyn in 1986. Relevant records of the Criminal Court of the City of New York have been sealed. At a subsequent interview on September 30, 1999, the Respondent was asked to provide an authorization that would have facilitated access to the records, but the Respondent nonetheless refused to provide the requested authorization.
26. On or about May 11, 1999, July 29, 1999, October 6, 1999, and October 27, 1999, during the investigation by the Office of Professional Medical Conduct, the Respondent's certified medical, billing and other records pertaining to Patients D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, and U were requested, but the Respondent has refused to provide any responsive billing records for these patients. In addition, the Respondent's certified employment records for anyone employed by Brooklyn Health Medical GRP, P.C., and/or Primary Care Extenders, Inc., after January 1, 1998 were requested, but the Respondent has refused to provide any responsive records pertaining to five particular physicians and

two particular physician assistants. Finally, the Respondent's certified corporate records for Brooklyn Health Medical GRP, P.C., and/or Primary Care Extenders, Inc., were requested, but the Respondent has refused to provide any responsive records.

27. The Respondent treated Patients D, E, F, G, L, M, N, O, P, Q, and R on various occasions between 1991 and 1999. The Respondent's treatment of these patients failed to meet acceptable standards of medical care in that:

- A. Medical records fail to document adequate supervision of the Respondent by a physician.
- B. Medical records fail to document that the Respondent practiced within the scope and discipline of any particular supervising physician.
- C. Medical records and other records fail to document the Respondent's credentials as a physician assistant and misrepresent the Respondent's credentials as those of a physician.
- D. Medical records fail to document adequate justification for excessive frequency of visits.
- E. Medical records are generally of poor quality.

28. The Respondent treated Patient G on various occasions between 1994 and 1999. The Respondent's treatment of this patient failed to meet acceptable standards of medical care in that:

- A. Medical records do not indicate that Patient G was duly informed of, counseled on, or educated about the risks associated with the use of Accutane.
- B. Medical records do not indicate that baseline or timely monitoring of Patient G for hepatotoxic side effects of Accutane occurred.
- C. Medical records fail to document the justification for Patient G remaining on Accutane beyond the standard recommended time period.

**CONCLUSIONS  
WITH REGARD TO  
FACTUAL ALLEGATIONS**

Pursuant to the instructions of the Administrative Law Judge, the Committee finds that the factual allegations are sustained with the same force and effect as if a full evidentiary hearing had been held and the Committee had deliberated after same.

Therefore:

EACH Factual Allegation IS SUSTAINED

**CONCLUSIONS  
WITH REGARD TO  
THE FIRST Through THIRTEENTH SPECIFICATION**

Respondent is charged with thirteen specification of professional misconduct. The Allegations proven are so numerous and diverse that they are listed again:

1. **OBTAINING HIS LICENSE FRAUDULENTLY**, in violation of New York Education Law §6530(1);
2. **PRACTICING THE PROFESSION FRAUDULENTLY OR BEYOND ITS AUTHORIZED SCOPE**, in violation of New York Education Law §6530(2);
3. **PRACTICING THE PROFESSION WITH NEGLIGENCE ON MORE THAN ONE OCCASION**, in violation of New York Education Law §6530(3);
4. **PRACTICING THE PROFESSION WITH GROSS NEGLIGENCE ON A PARTICULAR OCCASION**, in violation of New York Education Law §6530(4);
5. **PRACTICING THE PROFESSION WITH GROSS INCOMPETENCE ON MORE THAN ONE OCCASION**, in violation of New York Education Law §6530(5);
6. **PRACTICING THE PROFESSION WITH GROSS INCOMPETENCE**, in violation of New York Education Law §6530(6);

7. **CONDUCT IN THE PRACTICE OF MEDICINE WHICH EVIDENCES MORAL UNFITNESS TO PRACTICE MEDICINE**, in violation of New York Education Law §6530(20);
8. **WILLFULLY MAKING OR FILING A FALSE REPORT, OR FAILING TO FILE A REPORT REQUIRED BY LAW OR BY THE DEPARTMENT OF HEALTH OR THE EDUCATION DEPARTMENT OR WILLFULLY IMPEDING OR OBSTRUCTING SUCH FILING, OR INDUCING ANOTHER PERSON TO DO SO**, in violation of New York Education Law §6530(21)
9. **PRACTICING OR OFFERING TO PRACTICE BEYOND THE SCOPE PERMITTED BY LAW, OR ACCEPTING AND PERFORMING PROFESSIONAL RESPONSIBILITIES WHICH THE LICENSEE KNOWS OR HAS REASON TO KNOW THAT HE OR SHE IS NOT COMPETENT TO PERFORM, OR PERFORMING WITHOUT ADEQUATE SUPERVISION PROFESSIONAL SERVICES WHICH THE LICENSEE IS AUTHORIZED TO PERFORM ONLY UNDER THE SUPERVISION OF A LICENSED PROFESSIONAL**, in violation of New York Education Law §6530(24);
10. **FAILING TO RESPOND WITHIN THIRTY DAYS TO WRITTEN COMMUNICATIONS FROM THE DEPARTMENT OF HEALTH AND TO MAKE AVAILABLE ANY RELEVANT RECORDS WITH RESPECT TO AN INQUIRY OR COMPLAINT ABOUT THE LICENSEE'S PROFESSIONAL MISCONDUCT**, in violation of New York Education Law §6530(28);
11. **FAILING TO MAINTAIN A RECORD FOR EACH PATIENT WHICH ACCURATELY REFLECTS THE EVALUATION AND TREATMENT OF THE PATIENT**, in violation of New York Education Law §6530(32);
12. **ORDERING OF EXCESSIVE TREATMENT NOT WARRANTED BY THE CONDITION OF THE PATIENT**, in violation of New York Education Law §6530(35)
13. **FAILING TO COMPLY WITH ANY AGREEMENT ENTERED INTO TO AID HIS OR HER MEDICAL EDUCATION**, in violation of New York Education Law §6530(42)

The Committee was instructed that upon having been found in default, the specifications were admitted by Respondent and hence were sustained with the same force and effect as if a full evidentiary hearing had been held and the Committee had deliberated after same. However, the

Committee finds that regardless of the admissions by Respondent, the facts presented would satisfy each definition of professional misconduct which has been alleged. Therefore, the Committee sustains each of the specifications.

Therefore:

The **First through Thirteenth Specification IS SUSTAINED**;

**CONCLUSIONS  
WITH REGARD  
TO  
PENALTY**

Respondent was given every reasonable opportunity to participate in this proceeding. Respondent has chosen not to participate appropriately in the hearing. The very fact that Respondent has not made an appropriate appearance before this Committee is significant in and of itself. Respondent has been found guilty of practicing in contempt of every facet of accepted standards of medical practice. Respondent promised to execute a consent agreement. He failed in that promise. Failing to appropriately participate in a proceeding in which one could lose one's license to practice medicine is behavior not inconsistent with someone who has utter contempt for the rules that govern the practice of a Physician's Assistant. Even if Respondent's situation had changed between the time he agreed to the settlement and the time of the motion for default, a practitioner with a minimal sense of responsibility and judgment would have made some effort to communicate with the Committee. Hence, the very fact Respondent has been found in default supports the charges against him.

In the thirteen specifications established against Respondent, he has managed to violate virtually every single aspect of practice. From obtaining his license fraudulently to making false financial claims, Respondent has demonstrated a total disregard for even the most basic scruples. Furthermore, Respondent has shown he is grossly incompetent and grossly negligent. Hence he cannot even fall back on a claim of clinical adequacy.

Each of the charges represents a serious violation of clinical and moral standards. Hence, any one of the charges would warrant a significant penalty even if each incident stood alone as a single charge. The pattern of behavior and the complete absence of any evidence suggesting that rehabilitation is possible, convinces the Trier of Fact that only the most stringent penalty is appropriate in this proceeding. Respondent is a serious danger to medical consumers and the

general public in that he has neither clinical ability nor sufficient scruples to prohibit him from fraudulent practice.

Therefore, the Committee finds unanimously that the authorization issued to Respondent to perform medical services as a registered physician's assistant issued by the New York State Department of Education shall be revoked. In addition, in recognition of his pattern of fraud and theft, the maximum civil penalty must also be imposed.

## **ORDER**

WHEREFORE, Based upon the foregoing facts and conclusions,

1. The Factual allegations in the Statement of Charges (attached to this Decision and Order as Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

3. The **AUTHORIZATION** to perform medical services as a **REGISTERED PHYSICIAN'S ASSISTANT** issued by the New York State Department of Education, to Respondent **SHALL BE REVOKED**;

Furthermore, it is hereby **ORDERED** that;

4. A **Civil Penalty of \$130,000** (One Hundred Thirty Thousand Dollars) be imposed upon Respondent;

Furthermore, it is hereby **ORDERED** that;

5. **That any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; and non-renewal of permits or licenses (Tax Law, section 171(27); State Finance Law, section 18; CPLR, section 5001; Executive Law, section 32);**

Furthermore, it is hereby **ORDERED** that;

6. This order shall take effect **UPON RECEIPT** or **SEVEN (7) DAYS** after mailing of this order by Certified Mail.

**DATED: Newcomb, New York**

11/14, 2000

*Denise Bolan, RPA*  

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**DENISE BOLAN RPA, CHAIRPERSON**  
**ELEANOR KANE, M.D.**  
**TERESA BRIGGS, M.D., PhD.**

**To:**

**RICHARD J. ZAHNLEUTER, ESQ.**  
Associate Counsel, Medical Fraud Unit  
Office of Professional Medical Conduct  
Empire State Plaza  
Corning Tower - Room 2509  
Albany, New York 12237

**ISAAC OKORO, ESQ.**  
168-36 Jamaica Ave.  
Jamaica, NY 11432

**JEAN MOISE MILLIEN, R.P.A.**  
Brooklyn Health Medical Group, P.C.  
1183 Broadway  
Brooklyn, NY 12211

**JEAN MOISE MILLIEN, R.P.A.**  
C/O Shennelle Benson  
1720 Bedford Ave.  
Apartment 15 C  
Brooklyn, NY 12211

**MAIL PAYMENT TO:**

New York State Department of Health  
Bureau of Accounts Management  
Corning Tower Building --Room 1258  
Empire State Plaza Albany, N.Y. 12237

# APPENDIX ONE

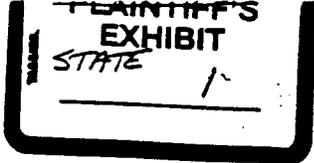
## **APPENDIX TWO**

**MATTER OF JEAN MOISE MILLIEN, RPA  
PETITIONER'S EXHIBIT LIST**

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- Exhibit 2# Statement of Charges
- Exhibit 3# Affidavit of Service from Alexander Poole & Co.
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# APPENDIX ONE



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

-----X  
IN THE MATTER : NOTICE  
OF : OF  
JEAN MOISE MILLIEN, R.P.A. : HEARING  
-----X

TO: Jean Moise Millien, R.P.A.  
Brooklyn Health Medical GRP, P.C.  
1183 Broadway  
Brooklyn, NY 12211

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 28th day of April 2000 at 10:00 in the forenoon of that day at the Office of Professional Medical Conduct, 5th Floor, Hedley Park Place, 433 River Street, Troy, NY 12180 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have

subpoenas issued on your behalf in order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(c) you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the date of the hearing. Any Charge and Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department,

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

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

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

DATED: Albany, New York  
*March 8*, 2000

  
PETER D. VAN BUREN  
Deputy Counsel

Inquiries should be directed to: Richard J. Zahnleuter  
Associate Counsel.  
Office of Professional  
Medical Conduct  
Hedley Park Place  
433 River Street

Troy, NY 12180  
(518) 402-0747

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

IN THE MATTER  
OF  
JEAN MOISE MILLIEN, R.P.A.

STATEMENT  
OF  
CHARGES

JEAN MOISE MILLIEN, R.P.A., the Respondent, was authorized to perform medical services as a registered physician assistant in New York State on July 25, 1988 by the issuance of license number 003566-1 by the New York State Education Department. Mr. Millien's current address, upon information and belief, is Brooklyn Health Medical GRP, P.C., 1183 Broadway, Brooklyn, NY 12211.

JEAN MOISE MILLIEN, R.P.A., is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law, pursuant to Section 230-b of the New York Public Health Law.

**FACTUAL ALLEGATIONS**

A. On or about January 30, 1985, the Respondent was indicted in Suffolk County Court for criminal possession of a weapon, second degree, and criminal mischief, second degree, based on an April 21, 1984 arrest. On or about June 11, 1985, the Respondent pled guilty to, and was convicted of, a reduced misdemeanor charge of criminal possession of a weapon, fourth degree.

B. On or about March 24, 1988, the Respondent applied to the New York State Education Department for licensure as a registered physician assistant. In response to the questions, "Have you ever been convicted of a

crime (felony or misdemeanor) in any state or any country," the Respondent answered, "No." In response to the question, "Have you ever been charged with a crime (felony or misdemeanor) in any state or country, the disposition of which was other than by acquittal or dismissal," the Respondent answered, "No."

C. On or about August 22, 1989, a certificate of incorporation for Stuyvesant Heights Medical Group, P.C., a professional medical corporation organized in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was filed with the New York State Department of State.

D. MD #1<sup>1</sup> was one of the physicians who, in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was an original shareholder, director and officer of Stuyvesant Heights Medical Group, P.C.

E. The Respondent entered into a management services agreement under which the Respondent provided management, supervisory, and administrative services, including billing, collection, and staffing services, to Stuyvesant Heights Medical Group, P.C.

F. By 1991, MD #1 relinquished to the Respondent all oversight, involvement, and participation in the operation of Stuyvesant Heights Medical Group, P.C., and the Respondent, contrary to the provisions of Sections 1503(a) and 1504(a) of the New York Business Corporation Law, exclusively continued to carry on the business of Stuyvesant Heights Medical Group, P.C.

G. On or about April 26, 1993, the Respondent submitted an application for hospital privileges at St. Mary's Hospital. In response to the

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<sup>1</sup>To preserve privacy throughout this document, registered physician assistants (RPA) and physicians (MD) are referred to by numerical designation, and patients are referred to by letter designation. An Appendix is attached hereto for appropriate recipients.

M. MD #3 and MD #4 were the physicians who, in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, were the original shareholders, directors and officers of Brooklyn Health Medical GRP, P.C.

N. The Respondent, through Primary Care Extenders, Inc., thereafter entered into a management services agreement under which the Respondent provided management, supervisory, and administrative services, including billing, collection, and staffing services, to Brooklyn Health Medical GRP, P.C.

O. By the beginning of 1997, MD #3 and MD #4 relinquished to the Respondent all oversight, involvement, and participation in the operation of Brooklyn Health Medical GRP, P.C., and the Respondent, contrary to Sections 1503(a) and 1504(a) of the New York Business Corporation Law, exclusively continued to carry on the business of Brooklyn Health Medical GRP, P.C.

P. On or about May 7, 1997, the Respondent submitted an application for hospital privileges at Western Queens Community Hospital. In response to the question, "Have there ever been any criminal charges brought against you," the Respondent answered, "No."

Q. Between approximately July 1997 and July 1999, and at other times, the Respondent provided care as a registered physician assistant at Brooklyn Health Medical GRP, P.C., without being supervised by a physician.

R. On or about February 23, 1998, the Respondent hired RPA #1 to work for Brooklyn Health Medical GRP, P.C., under the supervision of MD #3, even though MD #3 had long since relinquished all oversight, involvement, and participation in the operation of Brooklyn Health Medical GRP, P.C. Between February 23, 1998 and March 27, 1998, which was when RPA #1 resigned, the Respondent required RPA #1 to work at Brooklyn Health

question, "Have you ever been the subject of a criminal investigation and/or have there ever been any criminal charges brought against you," the Respondent answered, "No." In response to the question, "Have you ever been convicted of a crime," the Respondent answered, "No."

H. On or about July 20, 1994, the Respondent was held in default of his New York State Higher Education Assistance Services Corporation student loan. Judgment in the amount of \$19,752.12 was rendered against him. Upon information and belief, the Respondent has not satisfied the Judgment.

I. On or about April 26, 1996, the Respondent posed as a physician, MD #2, who previously had ceased employment with Stuyvesant Heights Medical Group, P.C., used MD #2's "personal identification number" to order 1,919 doses of free vaccines for immunizations from the New York State Department of Health Immunization Program's "Vaccines for Children" Program, and had the vaccines delivered to himself.

J. On or about February 9, 1996, a certificate of incorporation for Primary Care Extenders, Inc., was filed with the New York State Department of State.

K. The Respondent was the President and Chief Executive Officer of Primary Care Extenders, Inc. The function of Primary Care Extenders, Inc., was to provide management, supervisory, and administrative services, including staffing, billing, and collection services, to professional medical corporations.

L. On or about November 1, 1996, a certificate of incorporation for Brooklyn Health Medical GRP, P.C., a professional medical corporation organized in-compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was filed with the New York State Department of State.

Medical GRP, Inc., without supervision by a physician.

S. On or about November 16, 1998, the Respondent again posed as the same physician, MD #2, who had previously ceased employment with Stuyvesant Heights Medical Group, P.C., used the physician's "personal identification number" to order 1,150 doses of free vaccines for immunizations from the New York State Department of Health Immunization Program's "Vaccines for Children" Program, and had the vaccines delivered to himself.

T. In or about March 21, 1998 through August 1, 1998, the Respondent billed a third party insurer, Fidelis, for care for approximately 38 patients representing approximately 99 patient contacts at Brooklyn Health Medical GRP, P.C., under the name of MD #5 even though MD #5 had not had any oversight, involvement, or participation in the operation of Brooklyn Health Medical GRP, P.C., since in or about January 1997.

U. In or about July and October 1998, the Respondent billed two third party insurers, Empire Blue Cross and Blue Shield, and Medicaid, for care for Patients A, B, C, D, E, F, and G at a Brooklyn Health Medical GRP, P.C., clinic at 1183 Broadway in Brooklyn under the name of MD #6 even though MD #6 had no oversight, involvement, or participation in the operation of a Brooklyn Health Medical GRP, P.C., clinic at 1183 Broadway in Brooklyn.

V. On or about August 5, 1998, September 29, 1998, October 3, 1998, and November 7, 1998, the Respondent provided care to Patients H, I, J, and K and billed a third party insurer, Genesis, under the name of MD #7, even though MD #7 had not had any oversight, involvement, or participation in the operation of Brooklyn Health Medical GRP, P.C., since in or about January 1998.

W. - On or about September 24, 1998, October 31, 1998, and March 31, 1999, the Respondent provided care to Patient L. On or about March 31, 1999, the Respondent billed a third party insurer, GHI, for care for Patient L

on these dates under the name of MD #3 and Stuyvesant Heights Medical GRP, P.C., even though MD #3 had no oversight, involvement, or participation in the operation of Stuyvesant Heights Medical Group, P.C., since in or about 1991, and even though, on or about March 23, 1994, by proclamation of the Secretary of State of the State of New York, Stuyvesant Heights Medical Group, P.C., was dissolved for tax delinquency reasons by the Secretary of State pursuant to Section 203-A of the New York Tax Law.

X. The Respondent billed a third party insurer, 1199 National Benefit Fund, for care for approximately 25 patients at the reimbursement rate for a physician instead of the lower physician assistant rate since in or about January 1, 1997.

Y. On or about July 27, 1999, in an interview pursuant to Section 230(10)(a)(iii) of the New York Public Health Law, the Respondent admitted to a second incident of having been arrested; namely, for discharging a rifle outside of his mother's home in Brooklyn in 1986. Relevant records of the Criminal Court of the City of New York have been sealed. At a subsequent interview on September 30, 1999, the Respondent was asked to provide an authorization that would have facilitated access to the records, but the Respondent nonetheless refused to provide the requested authorization.

Z. On or about May 11, 1999, July 29, 1999, October 6, 1999, and October 27, 1999, during the investigation by the Office of Professional Medical Conduct, the Respondent's certified medical, billing and other records pertaining to Patients D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, and U were requested, but the Respondent has refused to provide any responsive billing records for these patients. In addition, the Respondent's certified employment records for anyone employed by Brooklyn Health Medical GRP, P.C., and/or Primary Care Extenders, Inc., after January 1, 1998 were requested, but the Respondent has refused to provide any responsive records

pertaining to five particular physicians and two particular physician assistants. Finally, the Respondent's certified corporate records for Brooklyn Health Medical GRP, P.C., and/or Primary Care Extenders, Inc., were requested, but the Respondent has refused to provide any responsive records.

AA. The Respondent treated Patients D, E, F, G, L, M, N, O, P, Q, and R on various occasions between 1991 and 1999. The Respondent's treatment of these patients failed to meet acceptable standards of medical care in that:

1. Medical records fail to document adequate supervision of the Respondent by a physician.
2. Medical records fail to document that the Respondent practiced within the scope and discipline of any particular supervising physician.
3. Medical records and other records fail to document the Respondent's credentials as a physician assistant and misrepresent the Respondent's credentials as those of a physician.
4. Medical records fail to document adequate justification for excessive frequency of visits.
5. Medical records are generally of poor quality.

BB. The Respondent treated Patient G on various occasions between 1994 and 1999. The Respondent's treatment of this patient failed to meet acceptable standards of medical care in that:

1. Medical records do not indicate that Patient G was duly informed of, counseled on, or educated about the risks associated with the use of Accutane.
2. Medical records do not indicate that baseline or timely monitoring of Patient G for hepatotoxic side effects of Accutane occurred.
3. Medical records fail to document the justification for Patient

G remaining on Accutane beyond the standard recommended time period.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **OBTAINING HIS LICENSE FRAUDULENTLY**, in violation of New York Education Law §6530(1) in that Petitioner charges:

1. The factual allegations in paragraphs A, B, and/or Y.

**SECOND SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **PRACTICING THE PROFESSION FRAUDULENTLY OR BEYOND ITS AUTHORIZED SCOPE**, in violation of New York Education Law §6530(2) in that Petitioner charges:

1. The factual allegations in paragraphs C, D, E, F, G, I, J, K, L, M, N, O, P, S, T, U, V, W, X, AA and/or BB.

**THIRD SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **PRACTICING THE PROFESSION WITH NEGLIGENCE ON MORE THAN ONE OCCASION**, in violation of New York Education Law §6530(3) in that Petitioner charges:

1. The factual allegations in paragraphs AA and BB.

**FOURTH SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **PRACTICING THE PROFESSION WITH GROSS NEGLIGENCE ON A PARTICULAR OCCASION**, in violation of New York Education Law §6530(4) in that Petitioner charges:

1. The factual allegations in paragraphs AA and BB.

**FIFTH SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **PRACTICING THE PROFESSION WITH INCOMPETENCE ON MORE THAN ONE OCCASION**, in violation of New York Education Law §6530(5) in that Petitioner charges:

1. The factual allegations in paragraphs AA and BB.

**SIXTH SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **PRACTICING THE PROFESSION WITH GROSS INCOMPETENCE**, in violation of New York Education Law §6530(6) in that Petitioner charges:

1. The factual allegations in paragraph BB.

**SEVENTH SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **CONDUCT IN THE PRACTICE OF MEDICINE WHICH EVIDENCES MORAL UNFITNESS TO PRACTICE MEDICINE**, in violation of New York Education Law §6530(20) in that Petitioner charges:

1. The factual allegations in paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA(1), AA(2), and/or AA(3).

**EIGHTH SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **WILLFULLY MAKING OR FILING A FALSE REPORT, OR FAILING TO FILE A REPORT REQUIRED BY LAW OR BY THE DEPARTMENT OF HEALTH OR THE EDUCATION DEPARTMENT OR WILLFULLY IMPEDING OR OBSTRUCTING SUCH FILING, OR INDUCING ANOTHER PERSON TO DO SO**, in violation of New York Education Law §6530(21) in that Petitioner charges:

1. The factual allegations in paragraphs A, B, G, I, P, S, T, U, V, W,

and/or X.

**NINTH SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **PRACTICING OR OFFERING TO PRACTICE BEYOND THE SCOPE PERMITTED BY LAW, OR ACCEPTING AND PERFORMING PROFESSIONAL RESPONSIBILITIES WHICH THE LICENSEE KNOWS OR HAS REASON TO KNOW THAT HE OR SHE IS NOT COMPETENT TO PERFORM, OR PERFORMING WITHOUT ADEQUATE SUPERVISION PROFESSIONAL SERVICES WHICH THE LICENSEE IS AUTHORIZED TO PERFORM ONLY UNDER THE SUPERVISION OF A LICENSED PROFESSIONAL**, in violation of New York Education Law §6530(24) in that Petitioner charges:

1. The factual allegations in paragraphs C, D, E, F, I, J, K, L, M, N, O, Q, R, S, AA(1), AA(2), and/or AA(3).

**TENTH SPECIFICATION**

Respondent is charged with professional misconduct by reason of his **FAILING TO RESPOND WITHIN THIRTY DAYS TO WRITTEN COMMUNICATIONS FROM THE DEPARTMENT OF HEALTH AND TO MAKE AVAILABLE ANY RELEVANT RECORDS WITH RESPECT TO AN INQUIRY OR COMPLAINT ABOUT THE LICENSEE'S PROFESSIONAL MISCONDUCT**, in violation of New York Education Law §6530(28) in that Petitioner charges:

1. The factual allegations in paragraphs Y and/or Z.

### ELEVENTH SPECIFICATION

Respondent is charged with professional misconduct by reason of his **FAILING TO MAINTAIN A RECORD FOR EACH PATIENT WHICH ACCURATELY REFLECTS THE EVALUATION AND TREATMENT OF THE PATIENT**, in violation of New York Education Law §6530(32) in that Petitioner charges:

1. The factual allegations in paragraphs AA and/or BB.

### TWELFTH SPECIFICATION

Respondent is charged with professional misconduct by reason of his **ORDERING OF EXCESSIVE TREATMENT NOT WARRANTED BY THE CONDITION OF THE PATIENT**, in violation of New York Education Law §6530(35) in that Petitioner charges:

1. The factual allegations in paragraph AA(4) and/or BB(3).

### THIRTEENTH SPECIFICATION

Respondent is charged with professional misconduct by reason of his **FAILING TO COMPLY WITH ANY AGREEMENT ENTERED INTO TO AID HIS OR HER MEDICAL EDUCATION**, in violation of New York Education Law §6530(42) in that Petitioner charges:

1. - The factual allegations in paragraph H.

DATED: *Mar. 9*, 2000  
Albany, New York

*Peter D. Van Buren*

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

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