



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

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

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

July 31, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

John O'Donnell, M.D.
4963 South Eagle Village
Manlius, New York 13104

RE: License No. 090048

Dear Dr. O'Donnell:

Enclosed please find Order #BPMC 97-185 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Ronald Sinzheimer, Esq.
23 Elk Street
Albany, New York 12207

Frederick Zimmer, Esq.

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

----- X

IN THE MATTER : SURRENDER
OF : ORDER
JOHN O'DONNELL, M.D. : BPMC # 97-185

-----X

JOHN O'DONNELL, M.D., says:

On or about February 25, 1963, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 090048 by the New York State Education Department.

My current address is 2504 Brewerton Road, Mattydale, New York 13211 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.


I am ~~not~~ currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that I have been charged with one hundred and twelve specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I admit guilt to the Ninety Second through Ninety Fourth Specifications set forth in the Statement of Charges in *full* satisfaction of all of the charges. (Exhibit A). 

I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such proposed agreement shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

John O'Donnell M.D.
JOHN O'DONNELL, M.D.
Respondent

Subscribed before me this

9 day of July, 1997

[Signature]

NOTARY PUBLIC

AGREED TO:

Date: 7/9, 1997

[Signature]

RONALD SINZHEIMER, Esq.
Attorney for Respondent

Date: July 14, 1997

Frederick Zimmer

FREDERICK ZIMMER
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: July 23, 1997

Anne F. Saile

ANNE F. SAILE
Director, Office of
Professional Medical Conduct

ORDER

Upon the proposed agreement of JOHN O'DONNELL, M.D., to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order via certified mail, whichever is earliest.

DATED: 7/26/97



PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct

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

-----X AMENDED
IN THE MATTER : STATEMENT
OF : OF
JOHN R. O'DONNELL, M.D. : CHARGES
-----X

JOHN R. O'DONNELL, M.D., the Respondent, was authorized to practice medicine in New York State on February 25, 1963 by the issuance of license number 090048 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent, during a period beginning on approximately January 19, 1990 and continuing through at least approximately May 10, 1993, provided medical care to Patient A (all patients are identified in the attached Appendix), an approximately 29 year old female, at his office at 2504 Brewerton Road, Mattydale, New York 13211 or at other locations (hereinafter "office"). Respondent billed Patient A's insurance carrier in the amount of approximately \$16,412 for services he claimed to have provided to Patient A during or about the period of approximately April 1991 through approximately May of 1993. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

EXHIBIT A

1. Respondent fraudulently billed for and/or fraudulently caused various medical tests to be performed upon Patient A including but not limited to venous and/or arterial studies on three occasions and/or holter monitor testing on two occasions.
2. Respondent fraudulently submitted billing codes to Patient A's insurance carrier for diagnoses of palpitations, dermatitis and/or phlebitis.
3. Respondent fraudulently billed Patient A's insurance carrier for somatosensory testing, brain stem evoked response testing and/or for a cardioversion procedure when Respondent knew such testing and/or procedures had not been performed.
4. Respondent caused various medical tests to be performed upon Patient A without adequate medical indication including but not limited to arterial and/or venous studies on three occasions, holter monitor testing on two occasions and/or a mammogram.

*Deleted
FZ*

[REDACTED]

C. Respondent, during a period beginning on or about August 29, 1989 and continuing through at least approximately July 24, 1995, provided medical care to Patient C who was approximately 34 years old upon initially presenting, at his office. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently caused Patient C to undergo medical testing including but not limited to RAST testing on five occasions, holter monitor testing and/or venous and/or arterial studies.
2. Respondent prescribed Fastin over an inappropriately long period of time.
3. Respondent prescribed Fastin in the presence of Patient C's hypertension.
4. Respondent caused Patient C to undergo medical testing without adequate medical indication including but not limited to RAST testing on five occasions, holter monitor testing and/or venous and/or arterial studies.

D. Respondent, during a period beginning on approximately January 17, 1992 and continuing through at least approximately February 12, 1992, provided medical care to Patient D, an approximately 54 year old female, at his office, who presented with a chief complaint of headaches before arising. Respondent billed Patient D's insurance carrier for approximately \$6,812 for services he claimed to have provided during the period of approximately January 17, 1992 through approximately February 12, 1992. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused Patient D to be subjected to various medical tests including but not limited to holter monitor testing, arterial and/or venous studies and/or RAST testing.
2. Respondent fraudulently submitted billing codes to Patient D's insurance carrier for diagnoses of stable and unstable angina, dermatitis and/or phlebitis.

3. Respondent fraudulently billed Patient D's insurance carrier for somatosensory testing, a cardioversion procedure and/or brain stem evoked response testing when Respondent knew such testing and/or procedures had not been performed.
4. Respondent caused Patient D to be subjected to various medical tests without adequate medical indication including but not limited to holter monitor testing, arterial and/or venous studies and/or RAST testing.
5. Respondent failed to adequately follow up on his clinical diagnosis of a heart murmur and/or possible rheumatic heart disease.

E. Respondent, during a period beginning on approximately December 10, 1991 and continuing through at least approximately March 25, 1992, provided medical care to Patient E, an approximately 25 year old female, at his office. Respondent billed Patient E's insurance carrier for approximately \$6,659 for services he claimed to have provided during or about December of 1991. Respondent's care of Patient E failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent inappropriately prescribed Xanax and Librax in combination.
2. Respondent ordered radiologic procedures without determining if Patient E was pregnant.
3. Respondent fraudulently billed for and/or fraudulently caused various medical tests to be performed upon Patient E including but not limited to venous and/or arterial studies.
4. Respondent fraudulently billed Patient E's insurance carrier for somatosensory testing and/or for a cardioversion procedure when Respondent knew such testing and/or procedures had not been performed.
5. Respondent caused various medical tests to be performed upon Patient E without adequate medical indication including but not limited to venous and/or arterial studies.

F. Respondent, during a period beginning on approximately November 19, 1991 and continuing through at least approximately December 17, 1991, provided medical care to Patient F, an approximately 27 year old male, at Respondent's office. Respondent billed Patient F's insurance carrier in the amount of approximately \$5,717 for services he claimed to have provided during or about the period of November 1991. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that;

1. Respondent fraudulently billed for and/or fraudulently caused various medical tests to be performed upon Patient F including but not limited to venous and/or arterial studies.
2. Respondent fraudulently billed Patient F's insurance carrier for a cardioversion procedure and /or somatosensory testing when Respondent knew such testing and/or procedures had not been performed.
3. Respondent fraudulently submitted billing codes to Patient F's insurance carrier for diagnoses of dermatitis and/or phlebitis.
4. Respondent caused various medical tests to be performed upon Patient F without adequate medical indication including but not limited to venous and/or arterial studies.

G. Respondent, during a period beginning on or about December 21, 1992 and continuing through at least approximately January 14, 1993, provided medical care at his office to Patient G, an approximately 71 year old female, who presented with rectal vibrations. Respondent billed Medicare for approximately \$6,075 for services he claimed to have performed during the period of approximately January 5 through approximately January 14, 1993. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused various medical tests to performed upon Patient G including but not limited to RAST testing and/or arterial and/or venous studies.
2. Respondent failed to adequately follow-up on Patient G's blood studies.
3. Respondent fraudulently billed Medicare for somatosensory testing and/or for a cardioversion procedure when Respondent knew such testing and/or procedures had not been performed.
4. Respondent caused various medical tests to performed upon Patient G without adequate medical indication including but not limited to RAST testing and/or arterial and/or venous studies.

H. Respondent, during a period beginning on or about January 6, 1993 and continuing through at least approximately April 5, 1993 provided medical care to Patient H, an approximately 70 year old male, at Respondent's office. Respondent billed Medicare for at least approximately \$6,170 for services he claimed to have performed during or about January of 1993. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused Patient H to be subjected to various medical tests including but not limited to RAST testing, holter monitor testing and/or venous and/or arterial studies.
2. Respondent fraudulently billed Medicare for somatosensory testing and/or for a cardioversion procedure when Respondent knew such testing and/or procedures had not been performed.
3. Respondent caused Patient H to be subjected to various medical tests without adequate medical indication including but not limited to RAST testing, holter monitor testing and/or venous and/or arterial studies.

I. Respondent during a period beginning on or about July 14, 1992 and continuing through at least approximately September 8, 1992 provided medical care to Patient I, an approximately 31 year male, at his office who presented with a chief complaint of rhinitis and sneezing. Respondent billed Patient I's insurance carrier for approximately \$7,432 for services he claimed to have provided during or about August and September of 1992. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused various medical testing to be performed upon Patient I including but not limited to venous and/or arterial studies, RAST testing and/or holter monitor testing.
2. Respondent fraudulently submitted billing codes to Patient I's insurance carrier for diagnoses of dermatitis and/or phlebitis.
3. Respondent fraudulently billed Patient I's insurance carrier for a cardioversion procedure and/or for somatosensory testing when Respondent knew such testing and/or procedures had not been performed.
4. Respondent caused various medical testing to be performed upon Patient I without adequate medical indication including but not limited to venous and/or arterial studies, RAST testing and/or holter monitor testing.

J. Respondent, during a period beginning on approximately July 24, 1985 and continuing through at least approximately July 6, 1994, provided medical care to Patient J, an approximately 49 year old female, at his office. Respondent billed Patient J's insurance carrier for approximately \$5,960.00 for services he claimed to have provided between approximately May 2 and

approximately June 6, 1994. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused various medical tests to be performed upon Patient J including but not limited to holter monitor testing, venous and/or arterial studies and/or RAST testing.
2. Respondent fraudulently billed Patient J's insurance carrier for somatosensory testing and/or for a cardioversion procedure when Respondent knew such testing and/or procedures had not been performed.
3. Respondent caused various medical tests to be performed upon Patient J without adequate medical indication including but not limited to holter monitor testing, venous and/or arterial studies and/or RAST testing.

K. Respondent, during a period beginning on approximately March 31, 1990 and continuing through at least approximately May 5, 1993, provided medical care at his office to Patient K, an approximately 52 year old female. Respondent billed Patient K's insurance carrier for approximately \$11,538 for services he claimed were performed between approximately September 2, 1992 and approximately August 27, 1993. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused various medical tests to be performed upon Patient K including but not limited to holter monitor testing, venous and/or arterial studies and/or RAST testing.
2. Respondent fraudulently billed Patient K's insurance carrier for somatosensory testing and/or for a cardioversion procedure when Respondent knew such testing and/or procedures had not been performed.

3. Respondent caused various medical tests to be performed upon Patient K without adequate medical indication including but not limited to holter monitor testing, venous and/or arterial studies and/or RAST testing.

L. Respondent, during a period beginning on approximately April 18, 1994 and continuing through at least approximately November 19, 1994, provided medical care to Patient L, an approximately 48 year old female, at his office. Respondent billed Patient L's insurance carrier for approximately \$6,276 for services he claimed to have provided between approximately April 18, 1994 and approximately July 7, 1994. Respondent's care of Patient L failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused various medical tests to be performed upon Patient L including but not limited to holter monitor testing, arterial and/or venous studies and/or RAST testing.
2. Respondent fraudulently billed Patient L's insurance carrier for somatosensory testing and/or a cardioversion procedure when Respondent knew such testing and/or procedures had not been performed.
3. Respondent caused various medical tests to be performed upon Patient L without adequate medical indication including but not limited to holter monitor testing, arterial and/or venous studies and/or RAST testing.

M. Respondent, during a period beginning on approximately February 19, 1975 and continuing through at least approximately July 26, 1995, provided medical care to Patient M, an approximately 45 year old male, at Respondent's office. Respondent billed Patient M's insurance carrier for approximately \$10,219 for services he claimed to have provided for the period of approximately February 23, 1993 through approximately

September 7, 1994. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused Patient M to be subjected to various medical tests including but not limited to holter monitor testing, arterial and/or venous studies and/or RAST testing.
2. Respondent fraudulently billed Patient M's insurance carrier for somatosensory testing and/or a cardioversion procedure when Respondent knew such testing and/or procedures had not been performed.
3. Respondent caused Patient M to be subjected to various medical tests without adequate medical indication including but not limited to holter monitor testing, arterial and/or venous studies and/or RAST testing.

N. Respondent, during a period beginning on or about January 5, 1988 and continuing through at least approximately January 20, 1994 provided medical care to Patient N, an approximately 45 year old male, at his office. Respondent billed Patient N's insurance carrier in the amount of approximately \$10,410 for services he claimed to have provided during or about June 1992 through approximately July of 1993. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently billed for and/or fraudulently caused various medical tests to be performed upon Patient N including but not limited to venous and/or arterial studies, holter monitor testing and/or RAST testing.
2. Respondent fraudulently billed Patient N's insurance company for a cardioversion procedure, somatosensory testing and/or brain stem evoked response testing when Respondent knew such testing and/or procedures had not been performed.

3. Respondent caused various medical tests to be performed upon Patient N without adequate medical indication including but not limited to venous and/or arterial studies, holter monitor testing and/or RAST testing.

O. Respondent, during a period beginning on or about July of 1974 and continuing through at least approximately January 7, 1996, provided medical care to Patient O, who was an approximately 30 year old female when Respondent commenced her medical care. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent failed to perform and/or record an adequate physical examination and/or to elicit and/or record an adequate history.
2. Respondent inappropriately, excessively and/or without adequate medical indication prescribed Soma and/or controlled substances such as Tylenol with Codeine, Tenuate Dospan and/or Percocet to Patient O.

P. Respondent provided medical care to Patient P, an approximately 21 year old male, during a period beginning on or about November 27, 1993 and continuing through at least approximately October 15, 1995. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent failed to perform and/or record an adequate physical examination and/or elicit and/or record an adequate history.
2. Respondent inappropriately and/or without adequate medical indication prescribed Soma and/or controlled substances such as Tylenol with Codeine and/or Valium to Patient P.

Q. Respondent provided medical care to Patient Q, a female,

beginning shortly after Patient Q's birth in August of 1973 and continuing through at least approximately November 7, 1995.

Respondent failed to meet acceptable medical standards of medical conduct and/or medical care, in that:

1. Respondent failed to perform and/or record an adequate physical examination and/or to elicit and/or record an adequate history.
2. Respondent excessively, inappropriately and/or without adequate medical indication prescribed Tenuate Dospan, Tylenol with Codeine and/or Soma to Patient Q.

R. Respondent, during a period beginning in or about January of 1994 and continuing through at least February of 1996, provided medical care to Patient R, a 28 year old female, at his office. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently caused various medical tests to be performed upon Patient R including but not limited to venous and/or arterial studies, RAST testing and/or pulmonary function testing.

*Deleted
F2*

~~_____~~

3. Respondent failed to adequately consult with a neurologist concerning Patient R's headaches.
4. Respondent caused various medical tests to be performed upon Patient R including but not limited to venous and/or arterial studies, RAST testing and/or pulmonary function testing without adequate medical indication.

S. Respondent, on or about June 29, 1993 and continuing through at least approximately February 16, 1996, provided

medical care to Patient S, an approximately 34 year old male, at his office. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently caused various medical tests to be performed upon Patient S including but not limited to holter monitor testing, venous and/or arterial studies and/or RAST testing.
2. Respondent failed to adequately follow up on Patient S's complaints of back pain including but not limited to the performance of x-rays on Patient S' lumbar spine.
3. Respondent inappropriately, excessively and/or without adequate medical indication prescribed Tylenol with Codeine and/or Soma to Patient S.
4. Respondent caused various medical tests to be performed upon Patient S without adequate medical indication including but not limited to holter monitor testing, venous and/or arterial studies and/or RAST testing.

T. Respondent provided medical care to Patient T, an approximately 41 year old female, during a period beginning on or about December 1, 1993 and continuing through at least approximately February 10, 1996, at his office. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent excessively prescribed a controlled substance, Plegine, to Patient T.

U. Respondent provided medical care to Patient U, an approximately 37 year old female, during a period beginning during or about October of 1992 and continuing through at least approximately January of 1996, at his office. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently caused Patient U to be subjected to various medical tests including but not limited to venous and/or arterial studies, pulmonary function testing, RAST testing and/or holter monitor testing.
2. Respondent prescribed amphetamine like drugs such as Plegine, Fastin and/or Tenuate over an excessive period of time to Patient U.
3. Respondent caused Patient U to be subjected to various medical tests without adequate medical indication including but not limited to venous and/or arterial studies, pulmonary function testing, RAST testing and/or holter monitor testing.

V. Respondent, during a period beginning in approximately early 1991 and continuing through at least approximately April of 1995, provided medical care to Patient V at his office.

Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently caused Patient V to be subjected to various medical tests including but not limited to RAST testing, venous and/or arterial studies and/or holter monitor testing.
2. Respondent excessively, inappropriately and/or without adequate medical indication prescribed Tylenol with Codeine and/or Soma to Patient V.
3. Respondent failed to adequately follow up on Patient V's complaints of back pain.
4. Respondent caused Patient V to be subjected to various medical tests without adequate medical indication including but not limited to RAST testing, venous and/or arterial studies and/or holter monitor testing.

W. Respondent, during a period beginning on approximately January 17, 1992 and continuing through at least approximately December of 1995, provided medical care to Patient W, an approximately 26 year old male, at his office. Respondent failed

to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently caused Patient W to be subjected to various medical tests including but not limited to RAST testing, holter monitor testing and/or venous and/or arterial studies.
2. Respondent excessively, inappropriately and/or without adequate medical indication prescribed Tylenol with Codeine and/or Valium to Patient W.
3. Respondent caused Patient W to be subjected to various medical tests without adequate medical indication including but not limited to RAST testing, holter monitor testing and/or venous and/or arterial studies.

X. Respondent, during a period beginning on or about October 11, 1993 and continuing through at least approximately January 25, 1994, provided medical care to Patient X, an approximately 21 year old female, at his office for a chief complaint of shortness of breath with pain on deep breathing. Respondent failed to meet acceptable standards of medical conduct and/or medical care, in that:

1. Respondent fraudulently caused Patient X to be subjected to various medical tests including but not limited to RAST testing and/or venous and/or arterial studies.
2. Respondent caused Patient X to undergo various medical tests without adequate medical indication including but not limited to RAST testing and/or venous and/or arterial studies.

SPECIFICATIONS

FIRST THROUGH TWENTIETH SPECIFICATIONS

PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with having committed professional misconduct under N.Y. Education Law §6530(2) (McKinney Supp. 1997) by reason of his having practiced the profession fraudulently, in that Petitioner charges:

- Deleted F2-*
1. The facts in paragraphs A and A.1, A and A.2 and/or A and A.3.
 2. ~~_____~~
 3. The facts in paragraphs C and C.1.
 4. The facts in paragraphs D and D.1, D and D.2 and/or D and D.3.
 5. The facts in paragraphs E and E.3 and/or E and E.4.
 6. The facts in paragraphs F and F.1, F and F.2 and/or F and F.3.
 7. The facts in paragraphs G and G.1 and/or G and G.3.
 8. The facts in paragraphs H and H.1 and/or H and H.2.
 9. The facts in paragraphs I and I.1, I and I.2 and/or I and I.3.
 10. The facts in paragraphs J and J.1 and/or J and J.2.
 11. The facts in paragraphs K and K.1 and/or K and K.2.
 12. The facts in paragraphs L and L.1 and/or L and L.2.
 13. The facts in paragraphs M and M.1 and/or M and M.2.
 14. The facts in paragraphs N and N.1 and/or N and N.2.
 15. The facts in paragraphs R and R.1.
 16. The facts in paragraphs S and S.1.
 17. The facts in paragraphs U and U.1.
 18. The facts in paragraphs V and V.1.

19. The facts in paragraphs W and W.1.
20. The facts in paragraphs X and X.1.

TWENTY FIRST THROUGH FORTY-THIRD SPECIFICATIONS

EXCESSIVE TESTING AND TREATMENT

Respondent is charged with having committed professional misconduct under N.Y. Education Law §6530 (35) (McKinney Supp. 1997) by reason of his having ordered excessive tests, treatment or use of treatment facilities not warranted by the condition of the patient, in that Petitioner charges:

21. The facts in paragraphs A and A.1 and/or A and A.4.
22. The facts in paragraphs C and C.1, C and C.2 and/or C and C.4.
23. The facts in paragraphs D and D.1 and/or D and D.4.
24. The facts in paragraphs E and E.3 and/or E and E.5.
25. The facts in paragraphs F and F.1 and/or F and F.4.
26. The facts in paragraphs G and G.1 and/or G and G.4.
27. The facts in paragraphs H and H.1 and/or H and H.3.
28. The facts in paragraphs I and I.1 and/or I and I.4.
29. The facts in paragraphs J and J.1 and/or J and J.3.
30. The facts in paragraphs K and K.1 and/or K and K.3.
31. The facts in paragraphs L and L.1 and/or L and L.3.
32. The facts in paragraphs M and M.1 and/or M and M.3.
33. The facts in paragraphs N and N.1 and/or N and N.3.
34. The facts in paragraphs O and O.2.
35. The facts in paragraphs P and P.2.
36. The facts in paragraphs Q and Q.2.

37. The facts in paragraphs R and R.1 and/or R and R.4.
38. The facts in paragraphs S and S.1, S and S.3 and/or S and S.4.
39. The facts in paragraphs T and T.1.
40. The facts in paragraphs U and U.1, U and U.2 and/or U and U.3.
41. The facts in paragraphs V and V.1, V and V.2 and/or V and V.4.
42. The facts in paragraphs W and W.1, W and W.2 and/or W and W.3.
43. The facts in paragraphs X and X.1 and/or X and X.2.

FORTY FOURTH THROUGH SIXTY SIXTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with having committed professional misconduct under N.Y. Education Law §6530(4) (McKinney Supp. 1997) by reason of his having practiced the profession with gross negligence on a particular occasion, in that Petitioner charges:

44. The facts in paragraphs A and A.4.
45. The facts in paragraphs C and C.2, C and C.3 and/or C and C.4.
46. The facts in paragraphs D and D.4 and/or D and D.5.
47. The facts in paragraphs E and E.1, E and E.2 and/or E and E.5.
48. The facts in paragraphs F and F.4.
49. The facts in paragraphs G and G.2 and/or G and G.4.
50. The facts in paragraphs H and H.3.
51. The facts in paragraphs I and I.4.
52. The facts in paragraphs J and J.3.
53. The facts in paragraphs K and K.3.

54. The facts in paragraphs L and L.3.
55. The facts in paragraphs M and M.3.
56. The facts in paragraphs N and N.3.
57. The facts in paragraphs O and O.1 and/or O and O.2.
58. The facts in paragraphs P and P.1 and/or P and P.2.
59. The facts in paragraphs Q and Q.1 and/or Q and Q.2.
60. The facts in paragraphs ~~██████████~~^{deleted FZ} R and R.3 and/or R and R.4.
61. The facts in paragraphs S and S.2, S and S.3 and/or S and S.4.
62. The facts in paragraphs T and T.1.
63. The facts in paragraphs U and U.2 and/or U and U.3.
64. The facts in paragraphs V and V.2, V and V.3 and/or V and V.4.
65. The facts in paragraphs W and W.2 and/or W and W.3.
66. The facts in paragraphs X and X.2.

SIXTY SEVENTH THROUGH EIGHTY NINTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with having committed professional misconduct under N.Y. Education Law §6530(6) (McKinney Supp. 1997) by reason of his having practiced the profession with gross incompetence, in that Petitioner charges:

67. The facts in paragraphs A and A.4.
68. The facts in paragraphs C and C.2, C and C.3 and/or C and C.4.
69. The facts in paragraphs D and D.4 and/or D and D.5.
70. The facts in paragraphs E and E.1, E and E.2 and/or E and E.5.
71. The facts in paragraphs F and F.4.

72. The facts in paragraphs G and G.2 and/or G and G.4.
73. The facts in paragraphs H and H.3.
74. The facts in paragraphs I and I.4.
75. The facts in paragraphs J and J.3.
76. The facts in paragraphs K and K.3.
77. The facts in paragraphs L and L.3.
78. The facts in paragraphs M and M.3.
79. The facts in paragraphs N and N.3.
80. The facts in paragraphs O and O.1 and/or O and O.2.
81. The facts in paragraphs P and P.1 and/or P and P.2.
82. The facts in paragraphs Q and Q.1 and/or Q and Q.2.
83. The facts in paragraphs ~~Q and Q.1~~ ^{Deleted F2} R and R.3 and/or R and R.4.
84. The facts in paragraphs S and S.2, S and S.3 and/or S and S.4.
85. The facts in paragraphs T and T.1.
86. The facts in paragraphs U and U.2 and/or U and U.3.
87. The facts in paragraphs V and V.2, V and V.3 and/or V and V.4.
88. The facts in paragraphs W and W.2 and/or W and W.3.
89. The facts in paragraphs X and X.2.

NINETIETH SPECIFICATION

PRACTICING THE PROFESSION WITH NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with having committed professional misconduct under N.Y. Education Law §6530 (3) (McKinney Supp. 1997) by reason of his having practiced the profession with negligence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

90. The facts in paragraphs A and A.4, C and C.2, C and C.3, C and C.4, D and D.4, D and D.5, E and E.1, E and E.2, E and E.5, F and F.4, G and G.2, G and G.4, H and H.3, I and I.4, J and J.3, K and K.3, L and L.3, M and M.3, N and N.3, O and O.1, O and O.2, P and P.1, P and P.2, Q and Q.1, Q and Q.2, R and R.3, R and R.4, S and S.2, S and S.3, S and S.4, T and T.1, U and U.2, U and U.3, V and V.2, V and V.3, V and V.4, W and W.2, W and W.3 and/or X and X.2.

NINETY FIRST SPECIFICATION

PRACTICING THE PROFESSION WITH INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with having committed professional misconduct under N.Y. Education Law §6530(5) (McKinney Supp. 1997) by reason of his having practiced the profession with incompetence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

91. The facts in paragraphs A and A.4, C and C.2, C and C.3, C and C.4, D and D.4, D and D.5, E and E.1, E and E.2, E and E.5, F and F.4, G and G.2, G and G.4, H and H.3, I and I.4, J and J.3, K and K.3, L and L.3, M and M.3, N and N.3, O and O.1, O and O.2, P and P.1, P and P.2, Q and Q.1, Q and Q.2, R and R.3, R and R.4, S and S.2, S and S.3, S and S.4, T and T.1, U and U.2, U and U.3, V and V.2, V and V.3, V and V.4, W and W.2, W and W.3 and/or X and X.2.

NINETY SECOND THROUGH NINETY FOURTH SPECIFICATIONS

FAILING TO MAINTAIN ADEQUATE RECORDS

Respondent is charged with having committed professional misconduct under N.Y. Education Law §6530 (32) (McKinney Supp. 1997) by reason of his having failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges:

92. The facts in paragraphs O and O.1.

93. The facts in paragraphs P and P.1.

94. The facts in paragraphs Q and Q.1.

**NINETY FIFTH THROUGH ONE HUNDRED FOURTEENTH
SPECIFICATIONS**

CONDUCT EVIDENCING MORAL UNFITNESS TO PRACTICE MEDICINE

Respondent is charged with having committed professional misconduct under N.Y. Education Law §6530(20) (McKinney Supp. 1997) by reason of his having committed conduct evidencing moral unfitness to practice medicine, in that Petitioner charges:

95. The facts in paragraphs A and A.1, A and A.2 and/or A and A.3.

deleted
F2

~~_____~~

97. The facts in paragraphs C and C.1.

98. The facts in paragraphs D and D.1, D and D.2 and/or D and D.3.

99. The facts in paragraphs E and E.3 and/or E and E.4.

100. The facts in paragraphs F and F.1, F and F.2 and/or F and F.3.

101. The facts in paragraphs G and G.1 and/or G and G.3.

102. The facts in paragraphs H and H.1 and/or H and H.2.

103. The facts in paragraphs I and I.1, I and I.2 and/or I and I.3.

104. The facts in paragraphs J and J.1 and/or J and J.2.

105. The facts in paragraphs K and K.1 and/or K and K.2.

106. The facts in paragraphs L and L.1 and/or L and L.2.

107. The facts in paragraphs M and M.1 and/or M and M.2.

108. The facts in paragraphs N and N.1 and/or N and N.2.

- 109. The facts in paragraphs R and R.1.
- 110. The facts in paragraphs S and S.1.
- 111. The facts in paragraphs U and U.1.
- 112. The facts in paragraphs V and V.1.
- 113. The facts in paragraphs W and W.1.
- 114. The facts in paragraphs X and X.1.

DATED: July 1, 1997
Albany, New York

7/1/97
F.2.

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