



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

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

January 8, 1997

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Sylvia P. Finkelstein, Esq.  
NYS Department of Health  
5 Penn Plaza Sixth Floor  
New York, New York 10001

Joel L. Roskind, M.D.  
8700 North Kendall Drive  
Miami, Florida 33176

**RE: In the Matter of Joel L. Roskind, M.D.**

Dear Ms. Finkelstein and Dr. Roskind:

Enclosed please find the Determination and Order (No. 97-17) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,

Handwritten signature of Tyrone T. Butler in black ink, followed by the initials 'nm'.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

COPY

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

**IN THE MATTER**  
**-OF-**  
**JOEL L. ROSKIND, M.D.**

**DECISION**  
**AND**  
**ORDER**  
**OF THE**  
**HEARING**  
**COMMITTEE**  
**BPMC ORDER**  
**NO. 97-17**

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated September 24, 1996 which were served upon **JOEL L. ROSKIND, M.D.**, (hereinafter referred to as "Respondent"). **F. MICHAEL JACOBIUS, M.D.**, Chairperson, **ROBERT BRUCE BERGMANN, M.D.**, and **RANDOLPH MANNING**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on November 7, 1996 at 5 Penn Plaza, New York, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner") appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **SYLVIA P. FINKELSTEIN, ESQ.**, Associate Counsel, Bureau of Professional Medical Conduct. Respondent did not appear in person but did make a written submission, which was distributed to the Committee. Evidence was received. A transcript of these proceedings was made.

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

### **STATEMENT OF CASE**

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of Section 6530(9) of the Education Law. In such cases, a licensee is charged with misconduct based upon prior professional disciplinary action or criminal conviction. The scope of this expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed by this state upon the licensee based solely upon the record of the previous conviction or discipline.

In the instant case, Respondent is charged with professional misconduct pursuant to the New York State Education Law, Section 6530(9)(d) (having been disciplined by the duly authorized agency of another state). The charges in this proceeding arise from a Consent Order issued by the Board of Medicine of the State of Florida. The Florida Order resulted in a fine, a reprimand 18 months of probation and 100 hours of community service. The allegations in this proceeding and the underlying events are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

### **FINDINGS OF FACT**

The Committee adopts the factual statements set forth on pages one and two of the Statement of Charges (Appendix One) as its findings of fact and incorporates them herein.

**CONCLUSIONS  
WITH REGARD TO  
FACTUAL ALLEGATIONS  
AND  
PENALTY**

Petitioner herein has proven by a preponderance of the evidence that Respondent was subjected to professional discipline in the state of Florida. Furthermore, the conduct resulting in the discipline in Florida would constitute misconduct if committed in New York. Therefore, the Factual Allegations and Specifications in this proceeding are sustained. The Committee now turns its attention to what penalty to impose.

The penalty imposed by Florida is not that of a body concerned about a physician who represents a threat to the public. While not an insubstantial penalty, it would appear that Florida considers this incident to be an isolated one. This Committee has reviewed the facts presented and agrees with the Florida assessment. The Order which follows is intended to parallel the Florida sanction.

**ORDER**

WHEREFORE, Based upon the preceding facts and conclusions,

It is hereby **ORDERED** that:

1. The Factual allegations in the Statement of Charges 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. Respondent be and is hereby **CENSURED** for his acts in Florida;  
Furthermore, it is hereby **ORDERED** that;
4. Should Respondent choose to begin active practice in New York State, he shall be subject to a period of **PROBATION** of not less than 18 months, according to the following terms:

- a. Respondent must substantiate that he has fulfilled all disciplinary requirements now imposed by the state of Florida or any additional or amended requirements imposed in the future
- b. The Director of the Office of Professional Medical Conduct or his or her designee (hereinafter collectively referred to as "the Director") may, at his or her sole discretion, review the professional performance of Respondent by randomly selecting patient records, or hospital charts for patients who were cared for by Respondent.
- c. The Director may, at his or her sole discretion, require Respondent to obtain a practice monitor.
  - i. The said practice monitor shall be approved by the Director.
  - ii. The costs associated with the said practice monitor shall be at Respondent's expense.
  - iii. The said practice monitor shall randomly select and review a sufficient number of patient files to ensure familiarity with the quality of Respondent's practice.
  - iv. The said practice monitor shall report to the Director at least quarterly with regard to the quality of Respondent's work.
  - v. The said practice monitor shall immediately report to the Director any deviation from accepted standards of medical care.

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

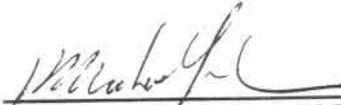
- d. Such other terms and conditions as the Director in his or her sole discretion shall deem appropriate to protect the people of this state.

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

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

**Dated:**  
**North Salem, New York**

January 3, 1995

  
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**F. MICHAEL JACOBIOUS, M.D., Chairperson**  
**ROBERT BRUCE BERGMANN, M.D.**  
**RANDOLPH MANNING**

TO:

**SYLVIA P. FINKELSTEIN, ESQ.**  
Associate Counsel  
Bureau of Professional Medical Conduct  
5 Penn Plaza, suite 601  
New York, N.Y. 10001

**JOEL L. ROSKIND M.D.**  
8700 North Kendall Dr.  
Miami, FL 33176

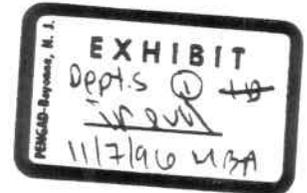
**APPENDIX ONE**

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

IN THE MATTER  
OF  
JOEL L. ROSKIND, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: JOEL L. ROSKIND, M.D.  
8700 North Kendall Drive  
Miami, Florida 33176



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1996) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1996). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on November 7, 1996, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any

witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the

administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York  
September 24, 1996



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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

Silvia Pastor Finkelstein  
Associate Counsel  
NYS Department of Health  
Division of Legal Affairs  
5 Penn Plaza, Suite 601  
New York, New York 10001  
(212) 613-2615

IN THE MATTER  
OF  
JOEL L. ROSKIND, M.D.

STATEMENT  
OF  
CHARGES

JOEL L. ROSKIND, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 3, 1971, by the issuance of license number 109455 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about December 5, 1995, the Board of Medicine of the State of Florida (Florida Board) issued an Consent Order entered into by Respondent and the Florida Board, to resolve an Administrative Complaint issued against Respondent alleging violations of §§458.331(1)(p) (performing professional services not duly authorized by the patient), 458.331(1)(k) (making deceptive, untrue or fraudulent representations in or related to the practice of medicine) and 458.331(1)(n) (exercising undue influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee), Florida Statutes, predicated upon Respondent's care and treatment of patient G.T. In the Consent entered into with the Florida Board, Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint. The penalty agreed upon by Respondent and the Florida Board consisted of a fine in the sum of \$10,000 dollars, a reprimand, 18 months probation, and 100 hours community service. If committed in New York, the conduct alleged in the Florida Board's Complaint would constitute professional misconduct under

N.Y. Educ. Law §§6530 (26) (performing professional services which have not been duly authorized by the patient), 6530(2) (practicing the profession fraudulently or beyond its authorized scope) and/or 6530(17) (exercising undue influence on the patient for the financial gain of the licensee).

### SPECIFICATION OF CHARGES

#### **SPECIFICATION**

#### **HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1996) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state [namely N.Y. Educ. Law §6530(26), (2), and/or (17)] as alleged in the facts of the following:

1. Paragraph A

DATED: September 24, 1996  
New York, New York



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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct