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

PUBLIC

July 18, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
Paul Robert Maher, Esq.
NYS Department of Health
Hedley Park Place
433 River Street – 4th Floor
Troy, New York 12180

Bernard Member, M.D.
c/o Bella Member
35 Seacoast Terrace #33J
Brooklyn, New York 11224

Mark A. Goldberg, Esq.
225 Broadway – Suite 1400
New York, New York 10007

Bernard Member, M.D.
1235 South Anna Drive
Rockville, Virginia 23146

RE: In the Matter of Bernard Member, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-183) 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.

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.

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,

James F. Horan/cah

James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah
Enclosure

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

COPY

IN THE MATTER

OF

BERNARD MEMBER, M.D.

DETERMINATION

AND

ORDER

BPMC #03-183

A hearing was held at the offices of the New York State Department of Health ("the Petitioner") pursuant to a Notice of Referral Proceeding and a Statement of Charges, both of which had been served upon the Respondent, **Bernard Member, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Andrew J. Merritt, M.D.**, Chairperson, **Walter M. Farkas, M.D.**, and **Mr. John O. Raymond**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, and **Paul Robert Maher, Esq.**, of Counsel. The Respondent appeared in person and was represented by **Nathan L. Dembin, Esq.**, 225 Broadway, Suite 1400, New York, New York 10007.

Evidence was received and transcripts of these proceedings were made.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee. However, when the charges are that the licensee was convicted of a crime in another state, the licensee may submit evidence to prove that the crime in the other state would not be a crime in New York State.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(iii). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

PROCEDURAL HISTORY

Notice of Referral Proceeding and Statement of Charges	February 18, 2003
Date of Prehearing Conference and Hearing	April 23, 2003
Receipt of Briefs from Parties	June 9, 2003
Receipt of Reply Briefs from Parties	June 23, 2003
Hearing Committee Deliberations	July 9, 2003

WITNESSES

For the Petitioner:	None

For the Respondent: Rodney D. Davis
Cynthia A. Long
Michael Decker, M.D.
Bernard Member, M.D.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Bernard Member, M.D., the Respondent, was authorized to practice medicine in New York State on August 1, 1980, by the issuance of license number 143064 by the New York State Education Department (Petitioner's Ex. 4).

2. On July 25, 2002, in the Circuit Court of Spotsylvania County, Virginia, the Respondent was convicted of violating Section 18.2-248 of the Code of Virginia, distribution of a Schedule II controlled substance, a felony. He was sentenced to a $2,500.00 fine and a six-month suspension of his operator's license. (Petitioner's Ex. 5).

3. On August 9, 2003, the Virginia Department of Health Professions, Board of Medicine ("Virginia Board"), suspended the Respondent's license to practice medicine, based on the conviction described in fact finding 2 (Petitioner's Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to New York State Education Law Section 6530(9)((a)(iii) – "Being convicted of committing an act constituting a crime under...the

law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law..."

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within New York state, would have constituted a crime under New York state law..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

THIRD SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having his license to practice medicine suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

Section 6530(9)(a)(iii) provides that a physician is guilty of professional misconduct in New York State if he has been convicted of a crime in another jurisdiction, provided that the criminal act would also have been a crime in New York State, had it been committed in New York State. The Respondent admits that he was convicted of a crime in Virginia. However, he contends that the criminal act committed in Virginia would not constitute a crime in New York State, had it been committed here. The Hearing Committee disagrees with the Respondent.

The Respondent was convicted in Virginia of a violation of Section 18.2-248 of the Code of Virginia. Subdivision A of this statute provides:

> Except as authorized in the Drug Control Act (Section 54.1-3400 et seq.), it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

The controlled substance involved was Fentanyl, a Schedule II controlled substance under both Virginia and New York law. The Respondent had a partially used box of Fentanyl patches in his office (transcript p. 77). There were four Fentanyl patches in the box (transcript p. 86). The medication had been prescribed to his mother, who was no longer using the medication. The Respondent, because his mother no longer needed the medication and because she had Alzheimer's Disease, had removed the medication from his mother's home to protect her from an unintentional misuse of the drug (transcript pp. 76-77). On approximately April 1, 2001, at the Respondent's office, the Respondent's receptionist, who was also his ex-wife, saw the Fentanyl box and asked if she could have it (transcript p. 77). She suffered from endometriosis, a condition that caused severe pain during her menstrual periods (transcript pp. 73, 75). She was not in pain at that time (transcript p. 87), but wanted a new pain medication for future menstrual periods. The

Respondent gave the Fentanyl to his ex-wife and told her how to use it (transcript pp. 77-78, 87). The Respondent created no medical record regarding this event (transcript p. 89) and did not monitor his ex-wife's use of the medication, other than asking her approximately two months afterward whether she had used the patches (transcript p. 87).

The Petitioner contends that had this act occurred in New York State, it would constitute a crime under Penal Law Section 220.39, criminal sale of a controlled substance in the third degree, which provides that a person is guilty of this crime when he "knowingly and unlawfully sells: (1) a narcotic drug..." The term "sell" is defined as "sell, exchange, give or dispose of to another..." (Penal Law Section 220.00[1]). Therefore, the fact that the Respondent gave the Fentanyl to his ex-wife, rather than receiving compensation for it, does not prevent the act in question from being a sale under New York law. The term "unlawfully" is defined as being "in violation of article thirty-three of the public health law" (Penal Law Section 220.00[2]), New York's Controlled Substances Act.

Despite the similarities between Section 18.2-248 of the Code of Virginia and Section 220.39 of the New York Penal Law, the Respondent claimed that they are not equivalent statutes and that his criminal act under the former would not have been a crime under the latter, had it been committed in New York State. The Respondent's position is based on the existence of a provision the Virginia statute that does not exist in the New York statute, that provision being accommodation. Subdivision D of Section 18.2-248 provides:

> If [a person who violated Section 18.2-248] proves that he gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate [of a correctional facility], and not with intent to profit thereby from any consideration received or expected nor to induce the recipient of the controlled substance to use or become addicted to or

dependent upon such controlled substance, he shall be guilty of a Class 5 felony.

Any person who violates Section 18.2-248 is subject to mandatory imprisonment pursuant to subdivision C of that section, unless an accommodation finding has been made. With such a finding, a defendant can be given a less severe sentence. An accommodation was found in the Respondent's trial and he was sentenced to a fine.

The Respondent made several arguments based on the existence of accommodation in the Virginia statute and the finding of an accommodation in his criminal case. The Respondent argued that the mere existence of the accommodation provision in the Virginia statute and its absence from the New York statute is enough to require a conclusion that a violation of the Virginia statute would not be a violation of the New York statute, had the conduct occurred in New York. In other words, the Respondent contended that this difference made the statutes not equivalent and, therefore, conduct constituting a violation of the Virginia statute would not also violate the New York statute. This argument is rejected. When determining whether a criminal act in another state would be a criminal act in New York had it been committed here, the definition of the crime in the other state is, obviously, a relevant concern. However, the accommodation provision of the Virginia statute is not part of that statute's definition of the crime. The accommodation provision speaks only to penalty. It determines the circumstances under which a sentence less severe than imprisonment can be imposed, but it neither broadens, narrows, nor alters in any manner the definition of the crime. The statute's definition of the crime is found in subdivision A of Section 18.2-248, quoted above, and that definition is unaltered by the accommodation language found in subdivision D of that statute.

Another argument raised by the Respondent also is unpersuasive. The Respondent contended that an accommodation finding in Virginia is a finding that a

defendant provided the controlled substance in good faith and in the course of his professional practice. (Hereafter, the term "in good faith" will be used to mean "in good faith and in the course of the physician's professional practice.") According to the Respondent, there is no crime under New York law when a controlled substance is provided by a physician in good faith, and, consequently, the Respondent's crime in Virginia would not have been a criminal act had it occurred in New York State.

There is a serious problem with the assertion that an accommodation finding is the equivalent of a finding of good faith. It does not follow from an absence of a profit motive and from an absence of a motive to induce the use of controlled substances or to cause addiction, that the physician was motivated by a good faith desire to treat a patient's medical problem. Another possibility is that the physician was motivated by a desire to do a favor for a person when the physician knew the drug was not medically indicated. The physician may also have provided a controlled substance that he did not believe was medically indicated because the recipient subjected him to some sort of pressure or undue influence – influence that it was the physician's duty to resist.

The very use of the word "accommodation" in the statute is a strong factor against the Respondent's argument. If it had been the intention of the Virginia Legislature to allow a less lenient sentence than imprisonment only when good faith is present, why did it not use the term "good faith" rather than "accommodation?" "Accommodation" is an odd and very unlikely choice of terminology if the Virginia Legislature's intent had been to address good faith. In common usage, to accommodate someone is to do him a favor or to give him what he wants. Providing a patient with medical care in good faith is not commonly described as accommodating him. It will be concluded that the term "accommodation" in Section 18.2-248(D) of the Code of Virginia is not a synonym for "good faith."

The Respondent presented a similar argument to the one addressed immediately above. He argued that the accommodation finding and/ or the evidence that he introduced at the hearing about his intentions when he dispensed the Fentanyl is sufficient to make a finding that he dispensed the drug in good faith. As stated above, the Respondent contended that good faith exempts a physician from criminal liability in New York State and, therefore, the Respondent's criminal act in Virginia would not have been a crime had it been committed in New York State. The Respondent cited several judicial opinions for the New York State good faith rule, including People v. Goldberg, 82 Misc.2d 474, 369 N.Y.S.2d 989 (1975); People v. Pal, 56 A.D.2d 640, 391 N.Y.S.2d 702 (1977); and People v. Doe, 178 Misc.2d 908, 680 N.Y.S.2d 920 (1998).

These judicial opinions, however, did not create the good faith rule; they merely applied the rule that is found in statutory law. The New York statute at issue in this hearing, Penal Law Section 220.39, criminal sale of a controlled substance in the third degree, renders criminal the sale or other distribution of Fentanyl and several other controlled substances "knowingly and unlawfully." The term "unlawfully" is defined as "in violation of article 33 of the public health law" (Penal Law Section 220.00[2]). In article 33, New York's Controlled Substances Act, is Section 3331(2), which provides that "[a] practitioner, in good faith, and in the course of his or her professional practice only, may prescribe, administer and dispense substances listed in schedules II, III, IV, and V..."

Although the Respondent made a lengthy presentation concerning the good faith rule in New York, he failed to mention either during the hearing or in his post-hearing briefs what, if anything, the law in Virginia provides regarding good faith. As stated above, Section 18.2-248(A) of the Code of Virginia provides that it is a crime "for any person to manufacture, sell, give, [or] distribute..." a controlled substance "[e]xcept as authorized in the Drug Control Act (Section 54.1-3400 et seq.)..." Section 54.1-3408 of the Virginia

Drug Control Act provides that a physician "shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice." The good faith rule found in New York law is also part of the Virginia drug laws. The wording is not identical, but the content is.

If the good faith rule would exclude the Respondent's acts from criminal liability in New York State, why did it not do the same in Virginia? In other words, if the Respondent's acts constituted a crime in Virginia despite the existence of the good faith rule there, how would the good faith rule lead to a different result in New York State? The Respondent is silent on this question. The Respondent's argument is based on the false premise that the good faith rule exists in New York, but not in Virginia. Once that false premise is exposed, the argument must be rejected.

The Hearing Committee has considered and rejected all the Respondent's arguments concerning whether his criminal act in Virginia would have been a criminal act in New York, had it been committed in New York. That act would be a violation of New York Penal Law Section 220.39, criminal sale of a controlled substance in the third degree.

The only issue remaining to be decided is the penalty to be imposed on the Respondent. Despite his criminal activity, the Hearing Committee has decided that a severe sanction is not necessary. There are a number of reasons for this decision.

The Respondent did not profit in any way from the criminal act. He was motivated by his former wife's desire to find an effective solution to a chronic problem with severe pain. His compassion for her in this difficult situation is a mitigating factor.

The Hearing Committee is also influenced by the fact that the Respondent has suffered a severe sanction in Virginia. Although he was not imprisoned, a felony conviction is never a minor punishment. In response to the conviction, the Virginia Board

suspended indefinitely his license to practice medicine. Whether he will ever be able to practice medicine in Virginia again is undetermined.

The Hearing Committee was impressed by the evidence concerning the quality of care the Respondent provided his patients and his exceptionally selfless dedication to them. Respondent's Exhibits A and B demonstrate the gratitude of his patients both for his medical skill and his compassion. Particularly impressive was the testimony of C.L., the mother of one of the Respondent's patients. She testified that her son had suffered from severe depression and had been suicidal, and that all therapy prior to the Respondent's had failed (transcript pp. 49-50). She stated that the Respondent saved her son's life and saved her family by being accessible literally 24 hours per day, seven days per week (transcript pp. 54-56).

Finally, the Hearing Committee is convinced that the Respondent is extremely unlikely to repeat his crime. The Hearing Committee observed the Respondent throughout his testimony and is convinced that he would not put himself or any patient in such a situation again. He was severely shaken by his ordeal with the Virginia criminal justice system and will do nothing to risk a recurrence of that experience.

Given all the factors present in this case, the Hearing Committee concludes that a censure and reprimand is a sufficient penalty.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent is censured and reprimanded.

2. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Marcellus, New York
July 18, 2003

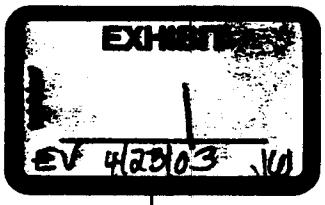
A J Merritt

Andrew J. Merritt, M.D.
Chairperson

Walter M. Farkas, M.D.
John O. Raymond

APPENDIX I

ORIGINAL



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

IN THE MATTER

OF

BERNARD MEMBER, M.D.
CO-02-09-4618-A

NOTICE OF

REFERRAL

PROCEEDING

TO: BERNARD MEMBER, M.D.
1235 South Anna Drive
Rockville, VA 23146

BERNARD MEMBER
C/O Bella Member
35 Seacoast Terrace #33J
Brooklyn, NY 11224

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 19th day of March 2003, at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. 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 that 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, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON.

TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before March 10, 2003.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), 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 hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an 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. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before March 10, 2003, and a copy of all papers must be served on the same date on the Department of Health attorney indicated 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.

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: Albany, New York
February 18, 2003

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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER	**STATEMENT**
OF	**OF**
BERNARD MEMBER, M.D.	**CHARGES**
CO-02-09-4618-A	

BERNARD MEMBER, M.D., the Respondent, was authorized to practice medicine in New York state on August 1, 1980, by the issuance of license number 143064 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 25, 2002 in the Circuit Court of Spotsylvania County, Virginia, Respondent was convicted of Distribution of a Schedule II Controlled Substance,a felony, and on or about July 31, 2002, was sentenced to a $2,500.00 fine and a six (6) month suspension of his Operator's License.

B. On or about August 9, 2002, the Commonwealth of Virginia, Department of Health Professions, Board of Medicine (hereinafter "Virginia Board"), by an Order (hereinafter "Virginia Order "), SUSPENDED Respondent's license to practice medicine, based on the conviction described in Paragraph A above.

C. The conduct resulting in the Virginia Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(9)(a)(i) (being convicted of committing an act constituting a crime under state law).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within New York state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A, B, and/or C.

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

5. The facts in Paragraphs A, B, and/or C.

DATED: Feb. 18, 2003
Albany, New York

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