



# STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Dennis P. Whalen  
*Executive Deputy Commissioner*

January 15, 1999

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Marta Sachey, Esq.  
Cindy Fascia, Esq.  
NYS Department of Health  
ESP Corning Tower, Room 2509  
Albany, NY 12237

Arnold Proskin, Esq.  
Peter L. Sanders, Esq.  
The Proskin Law Firm  
433 Loudon Road  
Albany, NY 12211

Alan M. Goldberg, M.D.  
28 Broadway  
Rensselaer, NY 12144

RE: In the Matter of Alan M. Goldberg, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 99-9) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 black ink, appearing to read "Tyrone Butler", followed by a stylized flourish or initials.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:mla  
Enclosure

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

**IN THE MATTER  
OF  
ALAN M. GOLDBERG, M.D.**

**COPY**  
**DETERMINATION  
AND  
ORDER  
ORDER #99-9**

**KENDRICK SEARS, M.D., ROGER OSKIVG, M.D. and MICHAEL R. GONZALEZ, R.P.A.**, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as Administrative Officer for the Hearing Committee on October 15, 1998, November 30, 1998 and December 1, 1998. **JEFFREY KIMMER, ESQ.**, Administrative Law Judge served as Administrative Officer on June 3, 1998.

After Consideration of the entire record, the Hearing Committee submits this Determination and Order.

## SUMMARY OF THE PROCEEDINGS

Notice of Hearing and Statement of Charges:	April 10, 1998
Pre-Hearing Conference:	May 19, 1998
Hearing Dates	June 3, 1998 October 15, 1998 November 30, 1998 December 1, 1998
Place of Hearing:	NYS Department of Health Hedley Park Place 433 River Street Troy, N.Y. 12180
Date of Deliberations:	December 22, 1998
Petitioner Appeared by:	Henry M. Goldberg, General Counsel NYS Department of Health, by Marta Sachey, Esq. on 6/3/98 and by Cindy Fascia, Esq. on all other hearing dates
Respondent appeared by:	The Proskin Law Firm 433 Loudon Road Albany, N.Y. 12211 by Arnold W. Proskin, Esq. and Peter L. Sanders, Esq. of Counsel

For the Petitioner:

- 1) Patients A's daughter
- 2) Patient A
- 3) Melvin J. Steinhart, M.D.
- 4) Todd Christopher

For the Respondent:

- 1) Alan M. Goldberg, M.D., the Respondent

### **STATEMENT OF CHARGES**

Essentially, the Statement of Charges charges the Respondent with moral unfitness, gross negligence, gross incompetence, negligence and incompetence.

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

### **TERMINOLOGY AS USED IN THIS REPORT**

**TRANSFERENCE** is a phenomenon in psychotherapy whereby patient "transfers" or projects onto the psychiatrist wishes, needs, conflicts and feelings which really apply to people who were significant in the patient's life. Transference can play a major role in the therapeutic process, and the psychiatrist, depending on the therapeutic modality, may use transference as a key element. In classical psychoanalytic psychotherapy, transference is the key to the therapy. However, in other modalities, even if the transference is not utilized, it must be looked for and

recognized at all times. If transference issues go unrecognized and are not dealt with, they may contaminate the therapy and cause all kinds of problems. (T. 263-264 [ Dr. Steinhart] )

COUNTERTRANSFERENCE is basically the same phenomenon as transference, but it applies to the psychiatrist. The psychiatrist also has feelings, wishes, conflicts, drives or needs that he may project onto the patient, and which really relate to important people in the psychiatrist's life. (T. 264 [ Dr. Steinhart])

Transference and countertransference issues do not end with the formal termination of therapy. Whenever there is a therapeutic relationship, the strong feelings that are generated continue long after the relationship ends. Some psychiatrists believe that transference and countertransference issues are so strong that they never end, even though many years may have elapsed since the cessation of therapy. ( T. 264-265 [ Dr. Steinhart])

TERMINATION in the context of psychiatric practice is the formal ending of treatment. Termination should be a mutually agreed upon decision by the psychiatric and the patient, and should be discussed over a period of time. There should be discussion between the doctor and the patient as to why termination is occurring, whether the goals of treatment have been met, whether there has been symptom improvement, and whether the patient's expectations of treatment have been met. ( Tr. 299-301 [ Dr. Steinhart]).

## **FINDINGS OF FACT**

Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous unless otherwise specified.

## **GENERAL FINDINGS**

1. Alan M. Goldberg, M.D. the Respondent, was authorized to practice medicine in New York state on September 19, 1973 by the issuance of license number 092095 by the New York State Education Department

## **FINDINGS AS TO PATIENT A**

2. Patient A, a 27 year old female, was seen for the first time by the Respondent at his private office on January 19, 1984. The Respondent made a diagnosis of drug and alcohol dependence and had the patient admitted to the detox unit of Samaritan Hospital, Troy, N.Y. on the same day for detoxification and treatment under his care ( Pet's. Ex. 5 pp. 2-3; Pet's. Ex. 8, pp. 3-4 ).



3. The Respondent saw patient A on 6 occasions for treatment and medication management during her Samaritan Hospital stay ( Pet's. Ex. 5, p.3; Pet's. Ex. 8 ).
4. Patient A was successfully discharged from Samaritan Hospital on January 31, 1984 ( Pet's. Ex. 5, p.3 ).
5. The Respondent and the other members of the treatment team at Samaritan Hospital recommended that Patient A receive further in-patient residential rehabilitation treatment at New York Hospital-Cornell Medical Center in White Plains, New York because she needed further psychiatric counseling (Pet's. Ex. 5, p.3; Pet's. Ex. 8, p.3; Pet's. Ex. 15).
6. Patient A agreed with the Samaritan Hospital team's recommendation and she applied for admission to the New York Hospital-Cornell Medical Center.  
  
While awaiting the outcome of her Medicaid appeal, Patient A began treatment with the Respondent in his private office practice and made visits to his office on February 19, 1984, February 25, 1984 and March 4, 1984 for psychiatric support.  
  
During this time period, the Respondent and Patient A also went out to dinner ( Pet's. Ex. 5, p.3; Pet's. Ex. 15; Tr. 113)

7. Patient A entered the New York Hospital-Cornell Medical Center on March 5, 1984 (Pet's. Ex. 7)
8. During the course of her hospitalization, Patient A wrote a series of four letters to the Respondent. These letters indicate that she was having strong transference to the Respondent which was expressed through romantic and erotic feelings and a desire for a relationship beyond appropriate bounds. The Respondent did not disclose these letters to Patient A's treating physician at the hospital ( Pet's. Ex. 6 (a) (b) (c) (d); Pet's. Ex. 7; Tr. 286-289).
9. Patient A's letters indicate that the Respondent phoned her at the hospital. During the phone calls he encouraged her to continue writing to him ( Pet's. Ex. 6 (b); Tr. 170-171).
10. On April 4, 1984, the Respondent visited Patient A at New York Hospital-Cornell Medical Center and took her out to dinner ( Pet's. Ex. 7; pp. 56-57; Tr. 659)
11. The Respondent kept Patient A's letters , Pet's Ex. 6 (a) (b) (c) (d) , "somewhere in [his] house" and gave them to the Office of Professional Medical Conduct in April 1996 during the course of its investigation.  
  
The letters were not part of Patient A's medical record (Pet's. Ex. 6; Tr. 297-298).

12. Patient A was discharged from New York Hospital-Cornell Medical Center on April 16, 1984. Upon her discharge, she was referred back to "support systems at Samaritan Hospital", including "out-patient psychiatric facilities at Samaritan Hospital. " ( Pet's. Ex. 7, pp. 2-8)
13. Within a day or two of her discharge from New York Hospital-Cornell Medical Center, Patient A came to the Respondent's private office and told him that she had deep feelings for him and wanted to have a relationship with him.
- The Respondent took Patient A to his home that evening and had sexual intercourse with her ( Pet's. Ex. 15; Tr 116, 621-622).
14. The Respondent engaged in sexual intercourse with Patient A in his home and in his office on various occasions from April 1984 through at least the end of October 1984. During that period, he would, on various occasions, bring Patient A and her 11 year old daughter to his home to stay for several days at a time. ( Resp's. Ex. A; Tr. 14-15, 31 ,33, 36, 42-43, 117-119).
15. The Respondent provided Patient A with medication during the period of their sexual relationship ( Tr. 22, 44, 119, 119-126).

16. During the time that the Respondent engaged in a sexual relationship with Patient A, her psychiatric condition worsened. She showed evidence of serious underlying psychiatric problems. She experienced "mood swings; sometimes she would tell the Respondent that she loved him and wanted to get married, while at other times she would threaten to turn him in. (Pet's. Ex. 15; Tr. 493, 626-627, 692).
17. Sometime in the fall of 1984, the Respondent gave either \$3,000.00 or \$4,000.00 cash to Patient A to move out of state and start a new life ( Tr. 198, 204, 626).
18. On or about December 2, 1984, the Respondent went to Patient A's mother's house and wrote a prescription for chlorpromazine, an anti-psychotic medication, for Patient A (Pet's. Ex. 13; Tr. 632).
19. On December 9, 1984, Patient A was admitted to Albany Medical Center Hospital. The hospital record indicates that she was referred there by the Respondent ( Pet's. Ex. 13 ).
20. The Albany Medical Center Hospital record for Patient A on December 9, 1984 reveals that Patient A reported that she had a physical relationship with the Respondent and that she believed that the Respondent wanted to kill her because "she knows too much" ( Pet's. Ex. 13)

21. A memorandum, dated November 19, 1993, from the Confidential Quality Assurance File of Alan Goldberg, at the Leonard Hospital, Troy New York reveals that Patient A reported that she had been raped in the past by the Respondent.( The Leonard Hospital is now Seton Health Systems of Troy, New York) ( Pet's. Ex. 11)
22. The investigation of this incident by the Leonard Hospital indicates that the Respondent was interviewed and acknowledged treating Patient A ten years prior and having a relationship with her ( Pet's. Ex. 11).
23. Neither the Albany Medical Center Hospital nor the Leonard Hospital reported Patient A's allegations regarding the Respondent to the Office of Professional Medical Conduct.
24. In 1984, accepted standards of psychiatric practice prohibited sexual involvement between a psychiatrist and a patient. Such sexual relationships completely blur the boundaries and the roles of both patient and the doctor and can lead to a worsening of the patient's condition. A patient may idolize the psychiatrist, and to look to him as a role model. Any undue familiarity with the psychiatrist, let alone a sexual relationship, builds up tremendous expectations in the patient that the patient's needs will be satisfied, and the patient's life will be better. When the sexual relationship with the psychiatrist ends, when rejection occurs, there is often anger on the part of the patient, and worsening of the patient's condition because of the rejection. This occurs frequently in patients who have a

lifelong history of being rejected by other people, of not having their needs fulfilled, and who have no self-esteem. (T. 268-269)

### **CONCLUSION OF THE HEARING COMMITTEE**

#### **1. CONCLUSIONS AS TO THE CREDIBILITY OF THE WITNESSES**

**Melvin Steinhart, M.D.**, the Petitioner's medical expert witness is board certified in psychiatry, and forensic psychiatry. He is an attending psychiatrist at Albany Medical Center Hospital, Professor of Clinical Psychiatry and Professor of Clinical Medicine at Albany Medical College, and the Director of the Psychiatric Consultation Services at Albany Medical Center Hospital. He is a fellow of the American College of Psychiatrists, American College of Physicians, and the American Psychiatric Association, in addition to being a member of numerous other professional organizations.

Dr. Steinhart has been very active in the American Psychiatric Association (APA) Ethics Committee since approximately 1982, and has personally served on APA Ethics Committee proceedings.

Dr. Steinhart was a very credible and knowledgeable witness whose testimony was uncontroverted.

**Patient A and Patient A's Daughter** were both credible witnesses.

- Their testimony was consistent.
- There was no collaboration between them, in fact they had been estranged for some time.
- They were not out to "get" the Respondent.
- OPMC's investigation in this case was not prompted by a complaint from Patient A .
- Both Patient A and her daughter were reluctant witnesses, neither wanted to testify, they just wanted to put the past behind them.

The fact that Patient A suffered from a psychiatric illness, and the fact that her daughter was only 11 years old at the time of the alleged incidents, does not make their testimony less credible.

**The Respondent** was not a credible witness. While admitting his sexual relationship with Patient A, he demonstrated no real understanding of his misconduct and no real remorse.

The Respondent attempted to mitigate his misconduct with Patient A by portraying his sexual relationship with her as an isolated event. In fact, he was forced to admit that he also engaged in a sexual relationship with another patient, "Patient H", approximately a year or a year and a half prior to his sexual relationship with Patient A,

It was also noted that the Respondent met his second wife, Valerie, when she and her husband were in therapy with the Respondent from approximately 1978-1981. The Respondent and Valerie began a sexual relationship approximately eight months after that three year treatment period ended. Valerie became pregnant with the Respondent's child in August 1982, and gave birth to the child in May 1983. The Respondent and Valerie were married in 1985.

## 2. CONCLUSIONS AS TO THE DOCTOR/PATIENT RELATIONSHIP BETWEEN THE RESPONDENT AND PATIENT A.

The Respondent became Patient A's treating psychiatrist on January 19, 1984 when he diagnosed her as drug and alcohol dependent and had her admitted to Samaritan Hospital for detoxification and treatment.

He was Patient A's psychiatrist during her in-patient treatment at Samaritan Hospital, and he treated her in three private therapy sessions from the time she was discharged from Samaritan up to her admissions to New York Hospital-Cornell Medical Center. He was the referring physician for Patient A's admission to New York Hospital-Cornell Medical Center.

Upon her discharge from New York Hospital-Cornell Medical Center, Patient A was referred back to "support systems at Samaritan Hospital", including "out-patient psychiatric facilities at Samaritan Hospital."

Generally, when a patient is referred for in-patient care, the usual expectation is that when the patient is discharged from the hospital, the patient will return to the referring physician for treatment.

In the absence of some pre-arrangement prior to the patient's hospital admission that she should be treated by someone else after her discharge, it would make the best sense therapeutically for the patient to return to her referring psychiatrist after discharge from in-patient care.

There is nothing in the record of this case indicating that Patient A was transferred to another treating psychiatrist.



The Respondent gave Patient A medication during the course of their sexual relationship, and he also gave Patient A's mother medical advice concerning Patient A's condition.

The Respondent prescribed an anti-psychotic medication for Patient A in December 1984, and he is noted as the referring physician when Patient A was admitted to the Albany Medical Center on December 9, 1984.

Considering these facts, the Hearing Committee concludes that the Respondent was Patient A's treating psychiatrist from January 19, 1984 up until at least December 9, 1984

The Hearing Committee also concluded that the Respondent was aware that he was Patient A's treating psychiatrist during the period of their sexual relationship.

Although the Respondent claims that he had terminated the psychiatrist/patient relationship with Patient A, there is nothing in the record to support that claim. As a psychiatrist, the Respondent was aware of the transference-countertransference phenomenon and used it to take advantage of Patient A. He also exploited the situation by giving her medication and money

Also, the Respondent recognized that his sexual relationship with Patient A was not appropriate and he was concerned when she threatened to reveal that relationship.

3. CONCLUSIONS AS TO THE CHARGE AGAINST THE RESPONDENT  
RELATING TO PATIENT A'S DAUGHTER

The Hearing Committee concludes that there is insufficient evidence in the record to sustain any of the charges against the Respondent relating to Patient A's daughter.

VOTE OF THE HEARING COMMITTEE  
(ALL VOTES WERE UNANIMOUS)

FIRST AND SECOND SPECIFICATIONS: (MORAL UNFITNESS)

SUSTAINED as to those charges specified in paragraphs A (1) AND A (3) of the Statement of Charges.

NOT SUSTAINED as to those charges specified in paragraphs A (2), B (1), B (2) and B (3) of the Statement of Charges

THIRD AND FOURTH SPECIFICATIONS ( GROSS NEGLIGENCE ).

SUSTAINED as to those charges specified in paragraphs A (1), and A (3) of the Statement of Charges.

NOT SUSTAINED as to those charges specified in paragraphs A (2), B (1), B (2) and B (3) of the Statement of Charges .

**FIFTH AND SIXTH SPECIFICATIONS: ( GROSS INCOMPETENCE)**

**NOT SUSTAINED** as to any of the charges specified in the Statement of Charges

**SEVENTH SPECIFICATION: ( NEGLIGENCE)**

**SUSTAINED** as to those charges specified in paragraphs A (1) and A (3) of the Statement of Charges.

**NOT SUSTAINED** as to those charges specified in paragraphs A (2), B (1), B(2) and B (3) of the Statement of Charges.

**EIGHT SPECIFICATIONS: ( INCOMPETENCE)**

**NOT SUSTAINED** as to any of the charges specified in the Statement of Charges

**DETERMINATION OF THE HEARING COMMITTEE**

The Respondent actions in having sexual relations with his Patient A was a gross violation of professional ethics and evidences a moral unfitness to practice medicine.

The Hearing Committee is fully aware that the sexual relationship in question occurred in 1984, 14 years ago. However, the record indicates that Patient A reported her sexual relationship with the Respondent to Albany Medical Center on December 9, 1984 and to the Leonard Hospital on November 19, 1993.

The Hearing Committee feels strongly that the Respondent should not benefit from the hospitals failure to report her allegations to the proper authorities.

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

In this case the Administrative Officer made a determination, unknown at the time to the Hearing Committee, that certain documents submitted by the parties would be disclosed to the Hearing Committee for consideration in determining penalty if any of the charges in the instant case were sustained. The Administrative Officer so advised the parties by letter dated December 3, 1998.

The documents concerned prior violations by the Respondent and included:

1. Certificate of Conviction
2. Order and Conditions of Probation
3. Application for a Certificate of Relief from Disabilities
4. Certificate of relief from Disabilities
5. Albany County Probation Report
6. Statement of Charges (N.Y.S. Dept. of Health)
7. Report of regents Review Committee
8. Terms of Probation- Alan Goldberg
9. Vote of the Board of Regents
10. Commissioner of Education Order No. 8706

The documents were revealed to the Hearing Committee after the Committee voted to sustain the instant charges against the Respondent, and after the determination by the Committee that the Respondent's license to practice medicine should be revoked. The documents just confirmed the Hearing Committee's determination that the Respondent is morally unfit to practice medicine.

**ORDER**


**IT IS HEREBY ORDERED THAT:**

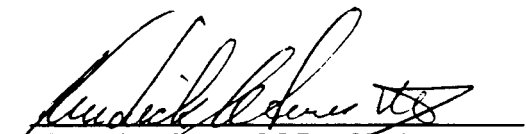
1. The Respondent license to practice medicine in the State of New York is hereby **REVOKED.**

The Hearing Committee strongly recommends that should the Respondent apply for the reinstatement of his license in the future, his application should be accompanied by a complete psychiatric evaluation by a psychiatrist who is familiar with the Respondent's history of sexual misconduct and who is approved by the Office of Professional Medical Conduct.

2. This **ORDER** shall be effective upon service of the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

**DATED:** Syracuse, New York

 1998

  
Kendrick Sears, M.D., Chairman

Roger Oskivg, M.D.  
Michael R. Gonzalez, R.P.A.

## **APPENDIX ONE**

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
ALAN M. GOLDBERG, M.D. : CHARGES

-----X

ALAN M. GOLDBERG, M.D., the Respondent, was authorized to practice medicine in New York State on September 19, 1973 by the issuance of license number 092095 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period October 1, 1996 through September 30, 1998 with a registration address of 28 Broadway, Rensselaer, New York 12144.

**FACTUAL ALLEGATIONS**

- A. Respondent provided psychiatric care to Patient A [identified in the Appendix] at various times from approximately January 1984 through approximately October 1984 including, in approximately January 1984 as an in-patient at Samaritan Hospital, Troy, New York and/or in approximately February and March 1984 at Respondent's office and/or in approximately April 1984 through approximately October 1984 during contacts with Patient A in Respondent's home and/or in Respondent's office and/or in Patient A's apartment. Respondent's conduct in relation to Patient A during the treatment period and/or during the post-treatment

period failed to conform to accepted standards of psychiatric practice in that:

1. Respondent engaged in sexual intercourse with Patient A on various occasions from approximately April 1984 through approximately October 1984 at Respondent's home and/or office.
2. Respondent, during the time period he engaged in a sexual relationship with Patient A, on various occasions brought Patient A and Patient A's then eleven year old daughter to Respondent's home to stay for several days.
3. Respondent, during the time period he engaged in a sexual relationship with Patient A, gave Patient A pills and/or Halcion and/or chloral hydrate while Patient A was at Respondent's home or at Patient A's apartment.

B. Respondent, during the approximate time period he engaged in a sexual relationship with Patient A, placed Patient A's then eleven year old daughter in circumstances and/or made statements to Patient A's daughter, which failed to conform to accepted standards of psychiatric practice in that:

1. Respondent brought Patient A's daughter to Respondent's home when Respondent brought Patient A there.
2. Respondent had Patient A's daughter share a bedroom with Respondent's minor daughter on the same floor where Respondent shared his bedroom with Patient A.
3. Respondent, approximately shortly after the time period he engaged in a sexual relationship with Patient A, told Patient A's daughter that Patient A was very dangerous and/or that Patient would hurt and/or try to kill the daughter or words to such effect.



## SPECIFICATIONS

### FIRST AND SECOND SPECIFICATIONS

#### MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Education Law §6530(20) by reason of his engaging in conduct in the practice of medicine which evidences moral unfitness to practice medicine in that Petitioner charges:

1. The facts in Paragraphs A and A.1, A and A.2 and/or A and A.3.
2. The facts in Paragraphs B and B.1 and/or B and B.2.

### THIRD AND FOURTH SPECIFICATIONS

#### GROSS NEGLIGENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(4) by reason of his practicing the profession of medicine with gross negligence on a particular occasion in that Petitioner charges:

3. The facts in Paragraphs A and A.1, A and A.2 and/or A and A.3.
4. The facts in Paragraphs B and B.1, B and B.2 and/or B and B.3.

#### FIFTH AND SIXTH SPECIFICATIONS

##### GROSS INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(6) by reason of his practicing the profession of medicine with gross incompetence in that Petitioner charges:

5. The facts in Paragraphs A and A.1, A and A.2 and/or A and A.3.
6. The facts in Paragraphs B and B.1, B and B.2 and/or B and B.3.

#### SEVENTH SPECIFICATION

##### NEGLIGENCE

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

7. The facts in Paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2 and/or B and B.3.

#### EIGHTH SPECIFICATION

##### INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(5) by reason of his practicing the

profession of medicine with incompetence on more than one occasion in that Petitioner charges that Respondent committed two or more of the following:

8. The facts in Paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2 and/or B and B.3.

DATED: *April 10*, 1998  
Albany, New York

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