

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

August 15, 1990

Tati I. Okereke, Physician  
50 High Street  
Buffalo, N.Y. 14203

Re: License No. 111470

Dear Dr. Okereke:

Enclosed please find Commissioner's Order No. 10761. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations  
By:

MOIRA A. DORAN  
Supervisor

DJK/MAH/er  
Enclosures

CERTIFIED MAIL- RRR

cc:

**RECEIVED**

AUG 20 1990

Office of Professional Discipline  
Medical Services

**REPORT OF THE  
REGENTS REVIEW COMMITTEE**

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**TATI I. OKEREKE**

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**CALENDAR NO. 10761**



# **The University of the State of New York**

IN THE MATTER  
of the  
Disciplinary Proceeding  
against

**TATI I. OKEREKE**

**NO. 10761  
VIOLATION OF  
PROBATION  
PROCEEDING**

who is currently licensed to practice  
as a physician in the State of New York.

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## **REPORT OF THE REGENTS REVIEW COMMITTEE**

TATI I. OKEREKE, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

Respondent was charged with five specifications of professional misconduct, to wit: practicing the profession fraudulently (first specification), practicing the profession with gross incompetence, or with gross negligence on a particular occasion (second specification), practicing the profession with negligence or incompetence on more than one occasion (third specification), unprofessional conduct (fourth specification), and directly or indirectly participating in the division, transference, assignment, rebate, splitting or refunding of fee for the furnishing of professional care or service (fifth specification).

**TATI I. OKEREKE (10761)**

On nine dates between August 27, 1981 and February 1, 1983 a hearing was held before a hearing committee of the State Board of Professional Medical Conduct. Respondent appeared at the hearing and was represented by an attorney. In March, 1983 the hearing committee found and concluded that respondent was guilty of the fifth specification of the charges, guilty of a part of the first specification and of parts of the fourth specification to the extent indicated in its report, not guilty of the second and third specifications of the charges, and not guilty of parts of the first and fourth specifications of the charges as indicated in its report. The hearing committee recommended that respondent's license to practice as a physician in the State of New York be suspended for five years, that execution of said suspension be stayed, and that respondent be placed on probation for five years under various terms, and that respondent be fined a total of \$30,000, representing imposition of a \$10,000 fine for each of the three areas of misconduct sustained.

On January 3, 1986 the Commissioner of Health recommended to the Board of Regents that the findings, conclusions, and recommendation of the hearing committee be accepted in full, and that the Board of Regents issue an order adopting and incorporating said findings and conclusions and further adopting as its determination said recommendation.

On May 30, 1986 respondent appeared before the Regents Review

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Committee and was represented thereat by an attorney. The Regents Review Committee thereafter recommended to the Board of Regents that the findings and conclusions of the hearing committee and the recommendation of the Commissioner of Health with respect thereto be accepted, that the recommendation of the hearing committee and the Commissioner of Health as to the measure of discipline be modified, that respondent's license to practice as a physician in the State of New York be suspended for three years upon each specification of the charges of which respondent was found guilty, said suspensions to run concurrently, that execution of said suspensions be stayed, that respondent be placed on probation for three years under various terms, that respondent be fined \$5000 upon each of the three specifications of the charges of which respondent was found guilty, said fines to total \$15,000, and said fine to be paid within six months of the effective date of the service of the order of the Commissioner of Education to be issued herein.

On September 26, 1986 the Board of Regents voted to accept the recommendation of the Regents Review Committee with respect to the findings and conclusions of the hearing committee and of the recommendation of the Commissioner of Health with respect thereto, that the recommendation of the Regents Review Committee as to the penalty recommended by the hearing committee and the Commissioner of Health be modified, and that, based upon a more serious view of

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respondent's misconduct, respondent's license to practice as a physician in the State of New York be suspended for three years upon each specification of the charges of which respondent was found guilty, said suspensions to run concurrently, that execution of the last two years and nine months of said suspensions be stayed at which time respondent be placed on probation for three years under various terms, that respondent be fined \$5000 upon each of the three specifications of the charges of which respondent was found guilty, said fines to total \$15,000, and said fine to be paid within six months of the effective date of the service of the order of the Commissioner of Education to be issued herein. On October 15, 1986 an order of the Commissioner of Education, No. 5929, executing and enforcing the vote of the Board of Regents was issued by the Commissioner of Education and became effective November 24, 1986.

Thereafter, pursuant to the vote of the Board of Regents on October 24, 1986, a supplemental order under Calendar No. 5929 was issued on December 12, 1986 by the Commissioner of Education substituting the Department of Health in place of the Education Department for the purposes of monitoring and enforcing the probation herein. Said supplemental order became effective December 24, 1986.

By letter dated February 15, 1989, pursuant to §230(19) of the Public Health Law, respondent was informed by the Director of the

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Office of Professional Medical Conduct of the New York State Department of Health that he had not complied with the terms of probation as set forth in said letter.

By letter dated March 2, 1989 respondent, by his attorney, Jeffrey A. Lazroe, Esq., requested a hearing pursuant to §230(19) of the Public Health Law. On April 13, 1989, May 1 and 31, 1989, and July 5, 1989 a violation of probation proceeding was held. Respondent did appear thereat and was represented by his aforementioned counsel, Jeffrey A. Lazroe, Esq.

On November 28, 1989 the hearing officer concluded that respondent had violated terms (1) and (3) of his probation. The hearing officer recommended that respondent's license to practice as a physician in the State of New York be revoked. A copy of the report of the hearing officer is annexed hereto, made a part hereof, and marked as Exhibit "A".

On April 18, 1990 respondent did appear before us in person and elected to proceed without an attorney. However his attorney, Jeffrey A. Lazroe, Esq., did submit a document, Alternative Proposed Findings of Fact, Conclusions of Law, and Recommendations, dated April 3, 1990, in advance, on behalf of respondent. Paul R. White, Esq., represented the Office of Professional Medical Conduct of the New York State Department of Health.

We have reviewed the record which includes respondent's March 29, 1990 letter to the State Education Department and the aforesaid

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April 3, 1990 submission by respondent's attorney as well as petitioner's April 16, 1990 brief. In addition we have also reviewed respondent's May 17, 1990 letter and petitioner's June 1, 1990 reply letter which are deemed a part of the record herein.

We unanimously recommend to the Board of Regents that it accept the findings, conclusions of law, and recommendation of the hearing officer, and that respondent's license to practice as a physician in the State of New York be revoked. Respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein; but said application shall not be granted automatically.

Our recommendation to the Board of Regents is limited to the instant violation of probation proceeding which, as the procedural history herein reveals, refers solely to the disciplinary matter of Tati I. Okereke, under Calendar No. 5929. It is therefore premature for us to consider any concerns respondent may have with regard to any active subsequent disciplinary matter commenced against him by the Office of Professional Medical Conduct of the New York State Department of Health in a separate proceeding; however we make the instant recommendation without prejudice to the respondent raising the issue of being exposed anew to charges of professional misconduct, whether or not differently stated, based



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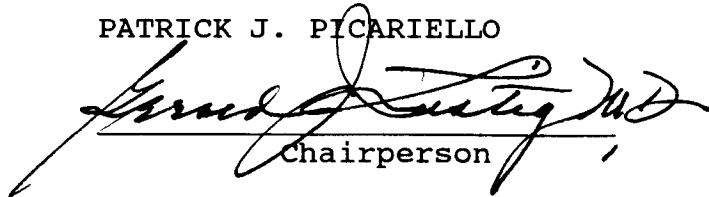
upon the same underlying acts that were the subject of this violation of probation matter, at the time such subsequent disciplinary matter comes before a Regents Review Committee.

Respectfully submitted,

GERALD J. LUSTIG, M.D.

JOHN T. MCKENNAN

PATRICK J. PICARIELLO

  
Chairperson

Dated: *July 10, 1990.*

STATE OF NEW YORK : DEPARTMENT OF HEALTH

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IN THE MATTER : ADMINISTRATIVE  
OF : LAW JUDGE'S  
TATI I. OKEREKE, M.D. : REPORT  
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TO: Kathleen M. Tanner, Director  
Office of Professional Medical Conduct

Tati I. Okereke, M.D. (hereinafter "Petitioner") was served a letter, dated February 15, 1989, by which Petitioner was accused of nine violations of the terms of probation imposed upon him by Order #5929 of the Commissioner of Education, dated October 15, 1986. By a letter dated March 2, 1989, Petitioner requested a hearing to dispute the facts forming the basis of the alleged violations of probation, pursuant to Public Health Law Section 230(19). A hearing was held before Larry G. Storch, Esq., Administrative Law Judge. The Petitioner appeared by Jeffrey A. Lazroe, Esq. The Department of Health (hereinafter "Department") appeared by Peter J. Millock, Esq., General Counsel, Paul R. White, Esq., of Counsel.

PROCEDURAL HISTORY

Service of Notice of Alleged Violations of Probation:	February 15, 1989
Pre-Hearing Conference:	None

EXHIBIT PA

Dates and Places of Hearing: April 13, 1989  
May 1 and 31, 1989  
July 5, 1989  
(All hearings were held at  
584 Delaware Avenue,  
Buffalo, New York)

Adjournments: March 29, 1989  
(Petitioner out of the country)

Department's Post-Hearing Brief  
Received: August 1, 1989

Petitioner's Post-Hearing Brief  
Received: August 18, 1989

Date Report Submitted: November 2, 1989

Witnesses for Department of  
Health: James Alfes  
JoAnn Ulatowski  
Jeffrey F. Torselli  
Dorothy Ciccarella

Witnesses for Petitioner: Tati I. Okereke, M.D.

STATEMENT OF CASE

The Department has charged the Petitioner with nine violations of the terms of probation imposed by the Commissioner of Education, pursuant to Order #5929, dated October 15, 1986. The alleged violations include the failure to pay a \$15,000 fine, making false statements on applications for re-appointment to the medical staff of two hospitals, submitting a false application for medical licensure to the State of Maryland, failure to maintain various controlled substance records mandated by the Public Health Law, as well as violations of the Business Corporation Law and General Business Law.

### FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Administrative Law Judge in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Petitioner was authorized to practice medicine in New York State on January 25, 1972 by the issuance of license number 11470. (Department's Exhibit #6).

2. By Order #5929 of the Commissioner of Education, dated October 15, 1986, Petitioner was found guilty of various acts of misconduct. Pursuant to this finding, Petitioner's medical license was suspended for three years, with execution of the last 2 years and 9 months of suspension stayed, at which time Petitioner was to be placed on probation for three years under terms of probation prescribed by the Regents Review Committee. In addition, Petitioner was fined \$15,000, to be paid within six months of the effective date of service of the Order. (Department's Exhibit #5).

3. The Order of the Commissioner of Education was stayed, pending Petitioner's appeal contesting the misconduct determination. The penalties imposed by the Board of Regents were ultimately upheld by the Appellate Division. (Matter of Okereke

v. State, 129 AD2d 373 (3rd Dept. 1987); lv app. den. 70 NY2d 611 (1987)).

4. Petitioner's medical license was actually suspended during the period from March 1, 1988 through May 31, 1988. (Department's Exhibit #6).

5. The Board of Regents imposed six terms of probation upon Petitioner. (Department's Exhibit #5).

6. Paragraph 1 of the terms of probation provides:

...That [Petitioner], during the period of probation, shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession...

(Department's Exhibit #5).

7. Paragraph 3 of the terms of probation provides:

...That [Petitioner] shall pay the \$15,000 fine imposed upon [Petitioner], by certified check, to the order of the New York State Education Department, addressed to the Executive Director, Office of Professional Discipline, as aforesaid, within six months after the effective date of the service of the Order of the Commissioner of Education to be issued in this matter...

(Department's Exhibit #5).

8. The effective date of service of Order #5929 was November 24, 1986 - five days after the order was sent by certified mail to Petitioner and his attorney. (Department's Exhibit #46).

9. Petitioner paid \$2,000 of the \$15,000 fine on August 25, 1988, leaving an unpaid balance of \$13,000. (Department's Exhibits #7 and 43).

10. Petitioner submitted an application for medical staff re-appointment, dated October 19, 1987, to the Children's Hospital of Buffalo. (Department's Exhibit #8).

11. Petitioner responded "No" to Question VI(1)(A) on the October 19, 1987 application, which asked: "Has your license to practice medicine in any jurisdiction ever been suspended, restricted, terminated, curtailed, revoked, or not renewed?". (Department's Exhibits #5 and 8).

12. Petitioner responded "No" to Question VI(2)(B) on the October 19, 1987 application which asked: "Have any judgments, settlements, findings, decisions, or any other determinations of any kind whatsoever been entered or made in any professional medical or dental misconduct proceeding, peer review-type proceeding or medical practice action wherein you were a party in this state or any other state or country?". (Department's Exhibit #8).

13. Petitioner did not disclose on this application the fact that he had been found guilty of professional misconduct by the Board of Regents, nor did he disclose the June 2, 1987 settlement of a medical malpractice action entitled Guth v. Okereke and The Children's Hospital of Buffalo. (Department's Exhibits #5 and 9 - subexhibits 23, 29, 30).

14. The statements made by Petitioner in completing the October 19, 1987 application for medical staff re-appointment were made under oath. (Department's Exhibit #8).

15. Petitioner submitted an additional document to the Children's Hospital of Buffalo, dated August 4, 1988 which purported to be a supplement to his application for re-appointment. (Department's Exhibit #9 - subexhibit 3).

16. On August 19, 1988, Petitioner's privileges at Children's Hospital of Buffalo were summarily suspended, pursuant to the by-laws of the medical staff. (Department's Exhibit #9 - subexhibit #8):

17. A hearing was held on September 27, September 28 and October 4, 1988 at the Petitioner's request before an Ad Hoc Committee drawn from members of the medical staff of Children's Hospital of Buffalo. The Committee issued a report recommending denial of Petitioner's application for re-appointment to the medical staff. (Department's Exhibit #10A).

18. On October 13, 1988, after receiving the results of the Ad Hoc Committee's hearing, Petitioner submitted a letter of resignation from the medical staff of Children's Hospital of Buffalo. (Department's Exhibit #44).

19. Petitioner submitted an application for re-appointment to the medical staff of the Buffalo General Hospital, dated November 19, 1987, for the period 1988-1990. (Department's Exhibit #26).

20. Petitioner responded "No" to Question #1 on the November 19, 1987 application, which asked: "Has your license to practice medicine in any jurisdiction ever been limited, suspended or revoked?" (Department's Exhibits #5 and 26).

21. Petitioner responded "No" to Question #3 on the November 19, 1987 application, which asked: "Have you ever been the subject of medical or dental misconduct proceedings or received notice of pending actions?" (Department's Exhibits #5 and 26).

22. Petitioner responded "No" to Question #4 on the November 19, 1987 application, which asked: "Have sanctions ever been imposed upon you by any health care institution, professional health care organization or licensing authority?" (Department's Exhibits #5 and 26).

23. On or about June 15, 1988, Daniel A. Mariniello, M.D., clinical chief of gynecology and obstetrics at Buffalo General Hospital, directed the facility's medical staff office to send Petitioner another application for re-appointment. (Respondent's Exhibit A; 204-205).

24. Thereafter, Petitioner submitted another application for re-appointment to the medical staff of the Buffalo General Hospital, dated June 23, 1988, also covering the period 1988-1990. (Department's Exhibit 27).

25. Questions #1, 3 and 4 contained within the June 23, 1988 application were identical to the corresponding items in the



November 19, 1987 application. Petitioner again responded "No" to each question. (Department's Exhibits #5 and 27).

26. On July 27, 1988, Petitioner's privileges at Buffalo General Hospital were summarily suspended, pursuant to the by-laws of the medical/dental staff. (Department's Exhibits #30 and 37).

27. Following the summary suspension, Petitioner submitted the same August 4, 1988 "Supplement" referenced in Paragraph 15, supra, to Buffalo General Hospital. (Department's Exhibit #42).

28. Petitioner applied for medical licensure in the State of Maryland by an application dated December 2, 1988. (Department's Exhibit #12A).

29. Question #16 on the December 2, 1988 application asked: "Have you ever been charged with violation of any law relative to practice of medicine or relative to any crime (felony)?" Petitioner gave the following response: "Had med. misconduct. hearings. No felony charge." (Department's Exhibit #12A).

30. Petitioner was charged with the felonies of sexual abuse and bribing a witness by Grand Jury Indictment #82-1579-502. Petitioner was initially tried for these crimes in July, 1985. Following a mistrial, Petitioner was re-tried in February, 1986. He was acquitted of all charges. (60-63).

31. Petitioner responded "No" to Question #17 on the December 2, 1988 Maryland licensure application, which asked: "Have you ever been found guilty in a malpractice suit or settled a malpractice claim?" Petitioner did not disclose the June 2,

1987 settlement in a medical malpractice action entitled Guth v. Okereke and Children's Hospital of Buffalo. (Department's Exhibit #9 - subexhibits 23, 30; Department's Exhibit #12A).

32. Question #21 on the December 2, 1988 licensure application asked: "Have you ever been discharged from or had a contract voided by any hospital service or training program or had any restrictions or withdrawals of hospital privileges based upon disciplinary action?" Petitioner responded: "In ref. to 20" \*Question #20 asked, inter alia, applicants whether they ever had a medical license revoked, suspended or placed on probation]. (Department's Exhibit #12A).

33. Petitioner attached a document to his December 2, 1988 application, entitled "Explanation of 'Yes' Answers on Page 2". In this "explanation", Petitioner stated that his privileges at Buffalo General Hospital and Children's Hospital were temporarily suspended due to the suspension of his medical license. (Department's Exhibit #12A)

34. On January 13, 1989 a subpoena was served upon Petitioner which required Petitioner to produce certain records on January 18, 1989 at the Department's offices in Buffalo, New York. (65-67; Department's Exhibits #13 and 14).

35. Petitioner did not comply with this subpoena as he failed to produce the required records in a timely manner. (67, 398).

36. Only after Petitioner received a letter which threatened disciplinary action did he provide the subpoenaed records. (68-69; Department's Exhibit #15).

37. The subpoena required Petitioner to produce the practitioner copies of all triplicate prescriptions issued during the five year period ending with service of the subpoena. (Department's Exhibit #13).

38. Petitioner issued at least fifty-one official New York State triplicate prescriptions between January, 1984 and June, 1988. (Department's Exhibits #17 and 17A).

39. The Petitioner, pursuant to the subpoena, produced the practitioner copy of only nineteen of these prescriptions. (72-73; Department's Exhibit #16).

40. The Respondent received at least thirty shipments of controlled substances from February 21, 1984 through December 5, 1988 from Henry Schein, Inc. a drug wholesaler in Port Washington, New York. (Department's Exhibit #19A).

41. Pursuant to the subpoena served on January 13, 1989, Petitioner produced purchase records for eighteen shipments of controlled drugs which he had received during the five year period ending January 13, 1989. (81; Department's Exhibit #18).

42. Three of the purchase records provided by Petitioner pursuant to the subpoena (Invoice dates: 5-20-85, 6-26-87, and 9-19-88) were not included in the compilation provided by Henry Schein, Inc. (Department's Exhibits #18 and 19A).

43. At the instant hearing, the Petitioner produced purchase records for two additional shipments of controlled substances. These two records had not previously been produced by the Petitioner in response to the Department's subpoena. (Petitioner's Exhibits D and E).

44. Petitioner did not maintain records for thirteen shipments of controlled substances which he received during the five year period ending on January 13, 1989, the date of service of the subpoena. These shipments included:

<u>Date</u>	<u>Quantity of Controlled Substances Obtained</u>
9-17-84	10 vials of Demerol
4-12-85	10 vials of Valium
3-07-86	100 tablets of Limbitrol
4-21-86	100 tablets of Limbitrol
8-18-86	100 tablets of Limbitrol 10 vials of Versed
10-10-86	100 caplets of Lotusate
12-15-86	10 vials of Valium 100 tablets of Limbitrol
4-10-87	10 vials of Diazepam (Valium) 100 caplets of Lotusate
5-18-87	10 vials of Diazepam (Valium)
9-23-87	100 tablets of APAP with codeine 60 mg.
12-07-87	100 capsules of Tylox 10 vials of Versed 100 caplets of Lotusate
7-11-88	10 vials of Valium 100 caplets of Lotusate

8-26-88            100 caplets of Lotusate  
(Department's Exhibits #18, 19A; Petitioner's Exhibits D and E).

45. Petitioner purchased the following controlled substances from Henry Schein, Inc., during the period February 21, 1984 through December 5, 1988:

- Demerol injectable;
- Valium injectable;
- Limbitrol tablets (600 tablets);
- Versed injectable;
- Lotusate caplets (500 caplets);
- APAP with codeine 60 mg. tablets (100 tablets);
- Tylox capsules (100 capsules);
- Nembutal capsules (100 capsules).

(Department's Exhibit #19A).

46. The subpoena served upon Petitioner on January 13, 1989 required Petitioner to produce the record or log of all controlled substances administered or dispensed by him over the five year period ending with service of the subpoena. (93; Department's Exhibit #13).

47. In response to this subpoena, Petitioner produced a list of patients upon whom he performed abortions in his office during the period 1985 through 1988. (Department's Exhibit #20).

48. The Petitioner provided no record concerning controlled substance administration or dispensing in 1984. (94).

49. The controlled substance administration record which the Petitioner produced for 1985 through 1988 did not indicate the address of the patient nor the type and quantity of drug each patient received, as required by 10 NYCRR §80.105(b). (95-96; Department's Exhibit #20).

50. Petitioner maintained no record to account for any of the 600 tablets of Limbitrol, 500 caplets of Lotusate, 100 capsules of Nembutal, 100 tablets of APAP with codeine 60 mg, and 100 capsules of Tylox which he purchased from March 7, 1986 to August 26, 1988. (100-107).

51. In January, 1989, the building directory found in the lobby of 50 High Street, Buffalo, New York included a listing for "Okereke, Tati, M.D., P.C." In addition, the door to the Petitioner's office identified him as a "P.C." (109, 267, 434; Department's Exhibit #21).

52. Petitioner did not file a certificate of incorporation as a professional services corporation with the Department of State. (Department's Exhibit #22).

53. Petitioner did not file a copy of a certification of incorporation as a professional services corporation with the State Education Department. (Department's Exhibit #23).

54. In January, 1989 the building directory at 50 High Street, Buffalo indicated that High Street Medical had its offices in Suite 1408 (113-114, 116, 267).

55. A pamphlet entitled "Information Regarding Elective Termination of Pregnancy Out-Patient and In-Hospital Procedures" bearing the name High Street Medical Group was found in Petitioner's waiting room (112; Department's Exhibit #24).

56. Petitioner was the only physician whose office was in Suite 1408 at 50 High Street, Buffalo. (116).

57. Petitioner admitted on cross examination that he advertised his abortion services under the name "High Street Medical". (462-463).

58. As of January 4, 1989, Petitioner had not filed a certificate with the Erie County Clerk's office authorizing him to do business under the assumed name of High Street Medical. (263-264, 269, 273).

#### CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. Numbers in parentheses refer to the specific Findings of Fact which support each conclusion.

#### Charge #1 - Failure to Pay Fine

The record clearly demonstrated that Petitioner failed to pay the bulk of the \$15,000 fine imposed on him by the Board of Regents. The Petitioner's defense to this charge (namely, that he could not afford to pay) is without support in the record. Petitioner produced income tax records for only one year (1987) of the three tax years that have elapsed since the issuance of the

Commissioner of Education's Order assessing his penalties. (Petitioner's Exhibit I). In any event, the 1987 tax return does not support Petitioner's claim. The return indicates the Petitioner accrued interest income in excess of \$11,000 during 1987. Further, Petitioner admitted to "pure savings" of approximately \$40,000 in 1987. This amount was more than sufficient to pay the fine imposed on Petitioner by the Board of Regents. Therefore, I conclude that Petitioner did violate Paragraph 3 of the terms of probation. As a result, Charge #1 should be SUSTAINED. (2, 5, 7, 8 and 9).

Charge #2 - False Application to Children's Hospital of Buffalo

The October 19, 1987 application for medical staff re-appointment submitted to the Children's Hospital of Buffalo, contained statements which were blatantly false. Petitioner falsely stated on the application that his license had never been suspended. He falsely stated that there were no malpractice settlements entered against him, and that there were no adverse misconduct determinations entered against him. He made these statements notwithstanding the fact that the Board of Regents had found him guilty of professional misconduct and that the malpractice action entitled Guth v. Okereke and Children's Hospital of Buffalo had resulted in an adverse settlement. His untimely "supplement" to his application, dated August 4, 1988, added nothing to mitigate his conduct. I therefore conclude that



Petitioner violated 8 NYCRR 29.1(b)(6) in that he willfully made and filed a false report to the Children's Hospital of Buffalo. Further, Petitioner's conduct in this regard clearly evidences moral unfitness to practice the profession of medicine in violation of 8 NYCRR 29.1(b)(5). Therefore, I further conclude that Charge #2 should be SUSTAINED. (2, 5, 6, 10, 11, 12, 13, 14, 15).

Charge #3 - False Application to Buffalo General Hospital

Petitioner submitted two applications for medical staff re-appointment to the Buffalo General Hospital, dated November 19, 1987 and June 23, 1988, respectively. On each of these applications, Petitioner gave blatantly false answers to three questions, where truthful answers would have revealed the disciplinary actions taken against him. His conduct in this regard again constituted violations of 8 NYCRR 29.1(b)(5) and (6). Therefore, I conclude that Petitioner's conduct did violate Paragraph 1 of the Terms of Probation, and that Charge #3 should be SUSTAINED. (2, 5, 6, 16, 17, 18, 19, 21, 22, 24).

Charge #4 - False Application for Medical Licensure in Maryland

Petitioner's December 2, 1988 application for medical licensure in the State of Maryland presents yet another example of his unwillingness to be truthful. He falsely stated (under oath) that he had never been charged with a felony, thus concealing the fact that he had been indicted on charges of sexual abuse and bribing a witness (both felonies). He again failed to disclose the adverse settlement reached in Guth v. Okereke and Children's Hospital of Buffalo. Thus, his conduct constituted violations of 8 NYCRR 29.1(b)(5) and (6). Therefore, I conclude that Petitioner's conduct violated Paragraph 1 of the Terms of Probation, and that Charge #4 should be SUSTAINED. (2, 5, 6, 25, 26, 27, 28, 29, 30).

Charge #5 - Failure to Maintain Triplicate Prescriptions

Public Health Law Section 3343(1)(a) requires prescribing practitioners and dispensing practitioners to preserve the retained copy of official New York State prescriptions (triplicates) in a separate file maintained exclusively for such records. Pursuant to 10 NYCRR 80.100(a), such records must be kept for a period of five years from the date of each transaction.

The subpoena duces tecum served on Petitioner on January 13, 1989 required production, inter alia, of the practitioner copy of all triplicate prescriptions issued during the past five years. Petitioner produced copies of nineteen

prescriptions. However, the Department's records clearly indicate that Petitioner issued at least fifty-one triplicates between January, 1984 and June, 1988 alone.

Petitioner violated Public Health Law Section 3343(1)(a) by his failure to retain all triplicate prescriptions for the five-year period mandated by regulation. Therefore, his conduct again violated Paragraph 1 of the Terms of Probation. I therefore, conclude that Charge #5 should be SUSTAINED (2, 5, 6, 31, 34, 35).

Charge #6 - Failure to Retain Records of Controlled Substances Purchased

Petitioner is required to keep a record of all controlled substances purchased, pursuant to 10 NYCRR 80.105. Further, Petitioner is required to maintain such records for a period of five years from the date of transaction. 10 NYCRR 80.100(a).

The subpoena duces tecum served on Petitioner also required production of all records or invoices of controlled substances purchased during the past five years. Petitioner produced copies of purchase records for a total of twenty shipments of controlled substances purchased during the five year period ending January 13, 1989. However, records obtained by the Department from Henry Schein, Inc., a drug wholesaler in Port Washington, New York, demonstrate that Petitioner failed to account for at least thirteen additional shipments of controlled substances.

Therefore, I conclude that Petitioner violated 10 NYCRR 80.105 by his failure to keep a record of all controlled substances purchased for the required five-year period. Thus, his conduct violated Paragraph 1 of the Terms of Probation. As a result, Charge #6 should be SUSTAINED. (2, 5, 6, 36, 37, 38, 39).

Charge #7 - Failure to Maintain Records of Controlled Substances Dispensed or Administered

Petitioner is also required to keep a record of all controlled substances dispensed or administered out of his own supplies pursuant to 10 NYCRR 80.105(b). These records must include the date of dispensing or administration, name and address of each patient, as well as the type and quantity of drug. Again, these records must be retained for five years from the date of each transaction in accordance with 10 NYCRR 80.100(a).

The subpoena duces tecum served on Petitioner required production of the record or log of all controlled substances dispensed or administered by Petitioner during the past five years. Petitioner produced a list of patients upon whom he performed abortions in his office during the period 1985 through 1988. He produced no records for 1984. The records which he did supply did not indicate the address of the patient, nor the type of and quantity of drug each patient received. In addition, the only controlled substances administered (according to the Petitioner's records) were Demerol, Valium, Nubain and Versed. Petitioner failed to account for considerable quantities of

Limbitrol, Lotusate, Nembutal, APAP with codeine (60 mg.), and Tylox purchased by him between March 7, 1988 and August 26, 1988.

Therefore, I conclude that Petitioner violated 10 NYCRR 80.105 by his failure to maintain records of all controlled substances dispensed or administered out of his own stock. Thus, his conduct again violated Paragraph 1 of the Terms of Probation. As a result, Charge #7 should be SUSTAINED. (2, 5, 6, 40, 41, 42, 43, 44, 45).

Charge #8 - Unauthorized Use of Professional Corporation (P.C.) Designation

Petitioner's medical practice is located at 50 High Street, Suite 1408, Buffalo, New York. Petitioner admitted listing his name in the building directory as "Okereke, Tati, M.D., P.C.". He further admitted to placing the initials "P.C." after his name on his office door. A document search by the Department revealed that Petitioner did not file a certificate of incorporation as a professional services corporation with either the Department of State or Education Department, in violation of Section 1503(c) of the Business Corporation Law. Therefore, I conclude that Petitioner's conduct in this regard did constitute a violation of Paragraph I of the Terms of Probation. Consequently, Charge #8 should be SUSTAINED. (2, 5, 6, 46, 47, 48, 49).

Charge #9 - Doing Business Under an Assumed Name Without  
Prior Authorization

Petitioner admitted that he advertised his abortion services under the name "High Street Medical". High Street Medical was also listed as being in Suite 1408, at 50 High Street, Buffalo, New York. This is the same suite occupied by Petitioner. The Department searched the records of the Erie County Clerk on January 4, 1989, and found that Petitioner had not filed a business certificate authorizing him to do business under the assumed name of High Street Medical, in violation of Section 130(1) of the General Business Law. Petitioner did not file such a certificate until April 10, 1989 - three days before this hearing began. Such untimely action does not mitigate his earlier failure to comply with the law.

Therefore, I conclude that Petitioner's conduct in this regard did constitute a violation of Paragraph 1 of the Terms of Probation. Consequently, Charge #9 should be SUSTAINED. (2, 5, 6, 50, 51, 52, 53, 54).

RECOMMENDATIONS

Pursuant to the Findings of Fact and Conclusions contained herein, I recommend that Petitioner's license to practice medicine in New York State be revoked. This recommendation was reached after due consideration of the full spectrum of available

penalties, including suspension, censure and reprimand and the imposition of monetary penalties.<sup>1</sup>

Any individual who receives a license to practice medicine is placed into a position of public trust. Petitioner, by his conduct, has demonstrated a degree of moral unfitness which makes him unworthy of that trust. He repeatedly attempted to obtain medical staff re-appointment at two hospitals through the use of lies and deceptions. Further, he sought to gain licensure in the State of Maryland through deception - even after being the subject of disciplinary proceedings at the Children's Hospital of Buffalo and Buffalo General Hospital.

In addition, Petitioner misrepresented himself as a professional service corporation and engaged in unauthorized business practices by using the name "High Street Medical". His disregard for the law, as well as his repeated lies and deceptions, clearly demonstrate that he lacks the moral character to be licensed as a physician.

Petitioner has also committed serious violations of the statutes and regulations governing the use of controlled substances. He failed to fully document the purchase and disposition of controlled substances over a five-year period. He was, therefore, unable to account for the substantial amounts of

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New York Education Law Section 6511-a (McKinney Supp. 1989) provides that the Board of Regents may impose any penalty authorized by Section 6511 if it determines that the licensee has violated any term or condition of probation.

drugs which he purchased. Finally, Petitioner failed to pay the \$15,000 fine imposed upon him by the Board of Regents in 1986.

I found Petitioner's testimony on his own behalf to be totally lacking in credibility. His testimony was argumentative, evasive, contradictory and illogical. He produced no other witnesses, nor any credible documentation to corroborate his claims.

Based upon the above, it is clear that the imposition of a lesser penalty will not accomplish anything. Petitioner has already undergone one period of suspension, without improvement in his conduct. The principal issue in this case is Petitioner's moral unfitness, rather than his clinical skills. If Petitioner's clinical skills were deficient, an additional period of suspension, coupled with appropriate re-training, might suffice. However, Petitioner's track record shows that a mere suspension of his license will not instill the moral character necessary to be a physician. The only appropriate penalty in this instance is revocation.

Based upon the foregoing, I hereby make the following recommendations:

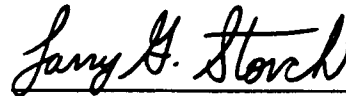
1. That the nine alleged violations of Petitioner's Terms of Probation, as set forth in Department's Exhibit #1 should be SUSTAINED; and



2. That Petitioner's license to practice medicine in New York State should be REVOKED.

DATED: Albany, New York  
November 23, 1989

Respectfully submitted,



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LARRY G. STORCH  
Administrative Law Judge  
New York State Department of Health

**ORDER OF THE COMMISSIONER OF  
EDUCATION OF THE STATE OF NEW YORK**

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**TATI I. OKEREKE**

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**CALENDAR NO. 10761**



# The University of the State of New York

IN THE MATTER

OF

**TATI I. OKEREKE**  
(Physician)

**DUPLICATE  
ORIGINAL  
VOTE AND ORDER  
NO. 10761**

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Upon the violation of probation proceeding in the matter of TATI I. OKEREKE, respondent, the report of the Regents Review Committee, a copy of which is made a part hereof, under Calendar No. 10761, and in accordance with the provisions of Title VIII of the Education Law, it was

**VOTED (July 27, 1990):** That the recommendation of the Regents Review Committee in this violation of probation proceeding in the matter of TATI I. OKEREKE be accepted; the findings, conclusions of law, and recommendation of the hearing officer, be accepted; that respondent's license to practice as a physician in the State of New York be revoked; that respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein, but said application shall not be granted automatically; that this determination is limited to the instant violation of probation proceeding which, as the procedural history herein reveals, refers solely to the disciplinary matter of Tati I. Okereke, under Calendar No. 5929; that it is therefore premature to consider any concerns respondent may have with regard to any active subsequent disciplinary matter commenced against him by the Office of Professional Medical Conduct of the New York State

TATI I. OKEREKE (10761)

Department of Health in a separate proceeding; that the instant determination is made without prejudice to the respondent raising the issue of being exposed anew to charges of professional misconduct, whether or not differently stated, based upon the same underlying acts that were the subject of this violation of probation matter, at the time such subsequent disciplinary matter comes before a Regents Review Committee; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol,  
Commissioner of Education of the State of  
New York, for and on behalf of the State  
Education Department and the Board of  
Regents, do hereunto set my hand and affix  
the seal of the State Education Department,  
at the City of Albany, this 6<sup>th</sup> day of

August, 1990.

*Thomas Sobol*

Commissioner of Education