



COMMONWEALTH of VIRGINIA

Robert A. Nebiker
Director

Department of Health Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712

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April 22, 2005

Joan M. Resk, D.O.
5303 Clearbrook Village Lane
Roanoke, Virginia 24014

CERTIFIED MAIL
7160 3901 9848 3154 4104

RE: License No.: 0102-050166

Dear Dr. Resk:

This letter is official notification that an informal conference of the Virginia Board of Medicine ("Board") will be held on **Tuesday, May 24, 2005, at 9:00 a.m., at the Clarion Hotel, 3315 Ordway Drive, Roanoke, Virginia.** The conference will be conducted pursuant to Sections 54.1-2400(10), 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code").

A Special Conference Committee ("Committee") will inquire into allegations that you may have violated certain laws governing the practice of osteopathy in Virginia. Specifically:

1. You may have violated Section 54.1-2915(3) [*formerly Section 54.1-2915.A(3)*], as further defined in Sections 54.1-2914.A(8) and (11), of the Code in your care and treatment of Patient A, a 71 year-old male, who first presented to you on or about June 29, 2001. Specifically:
 - a. On or about July 30, 2001, you diagnosed Patient A with neuropathy of the right hand, without performing a sensory examination or documenting other findings to support such a diagnosis.
 - b. On or about August 6, 2001, you diagnosed Patient A with a zinc deficiency, despite laboratory results that indicated a zinc level within the normal range.

c. On or about August 6, 2001, you initiated chelation therapy for Patient A without first ordering appropriate tests to evaluate cardiac and kidney functions, including cholesterol and blood sugar levels.

2. You may have violated Sections 54.1-2915(1) and (3) [formerly Sections 54.1-2915.A(1) and (3)], as further defined in Section 54.1-2914.A(11), of the Code with respect to your billing practices. Specifically, on at least seven (7) occasions from on or about July 30, 2001, until on or about September 5, 2001, you deviated from Current Procedural Terminology ("CPT") standards by billing Patient A for the total number of Osteopathic Manipulative Treatments ("OMTs") performed, instead of based on the number of body regions involved.

3. You may have violated Sections 54.1-2915(1) and (3) [formerly Sections 54.1-2915.A(1) and (3)], as further defined in Section 54.1-2914.A(11), of the Code with respect to your billing practices. Specifically:

a. On or about October 19, 2001, Patient B presented to you with complaints of back and leg pain. You billed Patient B for an initial high complexity visit (CPT Code 99205); however, your progress notes support only an initial detailed visit (CPT Code 99203).

b. On or about October 19, 2001, you ordered cervical x-rays for Patient B, despite a lack of complaints of neck pain from the patient.

c. On or about October 23, 2001, you deviated from CPT standards by billing Patient B for the total number of OMTs performed, instead of based on the number of body regions involved.

4. You may have violated Sections 54.1-2915(1) and (3) [formerly Sections 54.1-2915.A(1) and (3)], as further defined in Section 54.1-2914.A(11), of the Code with respect to your billing practices. Specifically, on or about April 2, 2001, you billed Patient C separately for the review of radiological films taken elsewhere, when this service should have been included in the fee for an initial detailed visit (CPT Code 99203).

5. You may have violated Sections 54.1-2915(1) and (3) [formerly Sections 54.1-2915.A (1) and (3)], as further defined in Section 54.1-2914.A(11), of the Code with respect to your billing practices. Specifically:

a. On or about November 22, 2000, Patient D presented to you with complaints of knee pain. You billed Patient D for an initial moderate complexity

visit (CPT Code 99204); however, your progress notes support only an initial detailed visit (CPT Code 99203).

b. On or about November 22, 2000, you deviated from CPT standards by billing Patient D for the total number of OMTs performed, instead of based on the number of body regions involved.

6. You may have violated Sections 54.1-2915(4) and (3) [*formerly Sections 54.1-2915.A(4) and (3)*], as further defined in Section 54.1-2914.A(8), of the Code in your care and treatment of Patient A, a 49 year-old female. Specifically, on or about June 5, 2002, you removed a lesion from Patient E's right cheek and subsequently failed to notify her of the pathological results, indicating basal cell carcinoma, with margins involved.

7. You may have violated Sections 54.1-2915(1) and (3) [*formerly Sections 54.1-2915.A (1) and (3)*], as further defined in Section 54.1-2914.A(11), of the Code with respect to your billing practices. Specifically:

a. On or about February 15, 2002, Patient E presented to you for evaluation of a lesion on her right cheek. You billed Patient E for an initial detailed visit (CPT Code 99203); however, your progress notes support only an initial expanded problem visit (CPT Code 99202).

b. On or about June 5, 2002, you removed the lesion from Patient E's right cheek and sent it for pathological analysis. You incorrectly informed Patient E that the cost of the pathology report would depend on whether the lesion was malignant or benign.

c. The pathological laboratory charged you for Level IV Surgical Pathology (CPT Code 88305) of the excised lesion. A Statement of Account provided to the patient indicates you charged her for a Level V pathology report (CPT Code 88307).

In order to protect their privacy, the patients referenced above have been referred to by letter only. Please see Attachment I for the identities of these individuals.

The Board has engaged the services of Suzanne Lagosky, D.O., whose curriculum vitae and written report are included in the material enclosed with this letter. Dr. Lagosky will be present at the informal conference to serve as an osteopathic expert, which will include providing her expert opinion regarding your standard of care.

After consideration of all information, the Committee may:

1. exonerate you;
2. place you on probation with such terms it deems appropriate;
3. reprimand you; and/or
4. impose a monetary penalty pursuant to Section 54.1-2401 of the Code.

Further, the Committee may refer this matter for a formal administrative proceeding when it has failed to dispose of a case by consent pursuant to Section 2.2-4020 of the Code.

You have the right to information that will be relied upon by the Committee in making a decision. Therefore, I enclose a copy of the documents that will be distributed to the members of the Committee, and will be considered by the Committee when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Further, if you retain counsel, it is your responsibility to provide the enclosed materials to your attorney.

To facilitate this proceeding, you must submit eight (8) copies of any documents you wish for the Committee to consider to Reneé S. Dixon, Discipline Case Manager, Virginia Board of Medicine, 6603 West Broad Street, 5th Floor, Richmond, Virginia 23230-1712, by **May 11, 2005**. Your documents may not be submitted by facsimile or e-mail. Should you or Adjudication Specialist Lori L. Pound wish to submit any documents for the Committee's consideration after **May 11, 2005**, such documents shall be considered only upon a ruling by the Chair of the Committee that good cause has been shown for late submission.

An attorney may represent you at the informal conference. If you obtain counsel, you should do so as soon as possible, because absent good cause to support a request for a continuance, the informal conference will be held on May 24, 2005. A request to continue this proceeding must state **in detail** the reason for the request and must establish good cause. Such request must be made, in writing, to me at the address listed on this letter and must be received by **12:00 noon on May 4, 2005**. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after **May 4, 2005**, will not be considered.

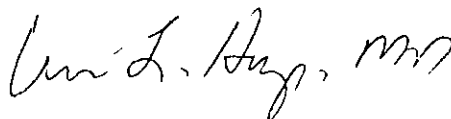
Relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of medicine and other healing arts in Virginia cited in this notice can be found on the Internet at <http://leg1.state.va.us>. To access this information, please click on the *Code of Virginia* for statutes and *Virginia Administrative Code* for regulations.

In its deliberations, the Committee may utilize the Sanction Reference Points System, as contained in the Sanction Reference Manual. The manual, which is a guidance document of the Board, may be accessed at <http://www.dhp.virginia.gov/medicine>. Please click on *Guidance Documents*, then select #85-11. You may also request a paper copy from the Board office by calling (804) 662-7009.

Please advise the Board, in writing, of your intention to be present. Should you fail to appear at the informal conference, the Board may proceed to a formal administrative hearing in order to impose sanctions.

If you have any questions regarding this notice, please contact Lori L. Pound, Adjudication Specialist, at (804) 662-7084.

Sincerely,



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

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Enclosures:

Attachment I
Informal Conference Package
Map

cc: Thomas B. Leecost, D.P.M., President, Virginia Board of Medicine
Robert A. Nebiker, Director, Department of Health Professions
Reneé S. Dixson, Discipline Case Manager, Board of Medicine
Lori L. Pound, Adjudication Specialist
Suzanne Lagosky, D.O.
Patricia Fisher, Investigator [83685, 83982, 84010, 84217]
J. Chris Southall, J.D., Senior Administrative Investigator [90646]



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Director

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August 9, 2005

Joan M. Resk, D.O.
5303 Clearbrook Village Lane
Roanoke, Virginia 24014

CERTIFIED MAIL

7160 3901 9848 8729 3568

Certified Article Number

7160 3901 9848 8729 3568

SENDER'S RECORD

RE: License No.: 0102-050166

Dear Dr. Resk:

By letter dated April 22, 2005, you were notified that a Special Conference Committee of the Virginia Board of Medicine will meet to inquire into allegations that you may have violated certain laws governing the practice of osteopathy in Virginia. This letter is to advise you of a correction in Paragraph 6 of that letter, which should be modified as follows:

6. You may have violated Sections 54.1-2915(4) and (3) [formerly Sections 54.1-2915.A(4) and (3)], as further defined in Section 54.1-2914.A(8), of the Code in your care and treatment of Patient E, a 49 year-old female. Specifically, on or about June 5, 2002, you removed a lesion from Patient E's right cheek and subsequently failed to notify her of the pathological results, indicating basal cell carcinoma, with margins involved.

If you have any questions regarding this notice, please contact Lori L. Pound, Adjudication Specialist, at (804) 662-7084.

Sincerely,

for William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

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LLP/ReskCorrLetter.doc

Correction Letter - Joan M. Resk, D.O.

August 9, 2005

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cc: Reneé S. Dixon, Discipline Case Manager, Board of Medicine
Paul G. Beers, Esquire
Lori L. Pound, Adjudication Specialist
Suzanne Lagosky, D.O.
Patricia Fisher, Investigator [83685, 83982, 84010, 84217]
J. Chris Southall, J.D., Senior Administrative Investigator [90646]



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September 1, 2005

Joan M. Resk, D.O.
5303 Clearbrook Village Lane
Roanoke, Virginia 24010

CERTIFIED MAIL
7160 3901 9848 8729 3681

RE: License No.: 0102-050166

Dear Dr. Resk:

This letter is official notification of the decision of the Special Conference Committee ("Committee") of the Virginia Board of Medicine ("Board"), which met with you on August 30, 2005, in Roanoke, Virginia. Members of the Board serving on the Committee were: Malcolm L. Cothran, Jr., M.D., Claudette E. Dalton, M.D., and Brent R. Lambert, M.D.

After thorough review of the matters before it, the Committee finds that it cannot resolve this matter within the limits of its authority as set forth in Section 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"). Therefore, pursuant to Section 2.2-4020 of the Code, a formal hearing will be convened. You will receive written notice indicating the date, time and location of the hearing approximately thirty (30) days in advance of such hearing.

Pursuant to Section 54.1-2400.2(F) of the Code, this case decision shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

Should you have any questions regarding the Committee's decision, you may refer them to Karen Perrine, Deputy Executive Director, Discipline, at (804) 662-7009.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Harp, M.D.", with a stylized flourish at the end.

William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

Informal Conference Decision Letter - Joan M. Resk, D.O.
September 1, 2005
Page 2 of 2

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cc: Thomas B. Leecost, D.P.M., President, Virginia Board of Medicine
Robert A. Nebiker, Director, Department of Health Professions
Reneé S. Dixon, Discipline Case Manager, Board of Medicine
William C. Garrett, Assistant Attorney General
Lori L. Pound, Adjudication Specialist
Suzanne Lagosky, D.O.
Paul G. Beers, Esquire
Patricia Fisher, R.N., Investigator [83685, 83982, 84010, 84217]
J. Christyne Southall, J.D., Sr. Administrative Investigator [90646]