

DRAFT  
2/13/80

Ms. Diane C. Funkhouser  
Alexandria Medical Society  
101 South Whiting Street  
Alexandria, Virginia

Re: Robert Greenspan, M.D.; Steven R. Tolkan, M.D.;  
5249 Duke Street, Alexandria, Virginia

Dear Ms. Funkhouser:

In both my individual capacity as a physician and in my capacity as Medical Director of the Northern Virginia Dialysis Center, I believe it is appropriate to bring to the Grievance and Ethics Committee certain information regarding Drs. Greenspan and Tolkan. I am a Board certified nephrologist and have been the Medical Director at Northern Virginia Dialysis Center from its inception in 1973. Drs. Greenspan and Tolkan joined my medical staff during the summer of 1978 and our professional relationships terminated on December 12, 1979, with the discharge of Dr. Greenspan and the voluntary resignation of Dr. Tolkan. A brief review of the history of events would appear appropriate at this point.

In January of 1979, I became ill and temporarily left the practice of medicine. Dr. Greenspan became the Acting Medical Director at Northern Virginia Dialysis Center / <sup>with</sup> his acknowledged agreement to maintain my practice pending my return. In early December of 1979, I returned to Alexandria on a full-time basis with the purpose of assuming my position as Medical Director. Dr. Greenspan resisted my return and indicated an unwillingness to continue our working relationship. The expression of that unwillingness, along with other details which will be discussed

below, left me with no alternative but to discharge Dr. Greenspan. Dr. Tolkan, who had been working at the Center, took that opportunity to voluntarily resign.

On the date of their departure, Greenspan and Tolkan began a campaign to solicit patients from the Center. Attached hereto as Exhibit A is the December 12, 1979, To Whom It May Concern form, which was distributed on each shift at the Center by Drs. Greenspan and Tolkan. This form was prepared on Northern Virginia Dialysis Center stationery without the approval of any Center officials. Further, and most egregiously, this form was circulated to all of the patients while they were receiving dialysis treatment. As I am sure the Committee is aware, patients who are being dialyzed suffer strain and discomfort. Knowing that, however, did not stop Drs. Greenspan and Tolkan from speaking with all of the patients at the Center and soliciting the return of these forms during the course of the patients treatment.

Prior to my return, Dr. Greenspan raised questions about my competence before the Alexandria Hospital Executive Committee. As a result of his allegations, they suspended my privileges. After securing an independent evaluation, the Executive Committee was satisfied that I was capable of continuing to practice at their hospital and returned my privileges. On December 12, and thereafter, Dr. Greenspan informed patients, as well as staff members at the Center, of my lack of privileges at Alexandria Hospital and erroneously informed the patients that if they became acutely ill, I did not have hospital privileges which would permit them to be admitted to a hospital. I had, and still

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have, hospital privileges at many of the hospitals in the area and Dr. Greenspan was well aware of that fact. His awareness, however, did not temper his comments to the patients; which comments, I submit, were totally improper and inappropriate.

Drs. Greenspan and Tolkan filed a lawsuit in the United States District Court in Alexandria, Virginia, alleging that they had been improperly discharged by National Medical Care, Inc. and myself. Further, their lawsuit alleged that the patients were being denied their right to the physician of their choice because Greenspan and Tolkan were being denied privileges at the Center. The Court ruled against them on every issue, but that did not inhibit Drs. Greenspan and Tolkan from posting a sign on their office door soliciting patients. See attached Exhibit B. Further, it has come to our attention that Drs. Greenspan and Tolkan, and their staff, have been phoning patients at home to ask whether the patients wanted to change treating physicians. A copy of Judge Lewis' opinion is attached as Exhibit C. During the course of the trial Judge Lewis reviewed the forms which were distributed to the patients and his comments are attached as Exhibit D, hereto, pages 371-72.

While I was absent, Dr. Greenspan as Acting Medical Director, made application to the Virginia authorities for a provider number to begin a dialysis center in Woodbridge, Virginia. The dispute as to whether or not the rights to that center belong to me or to Dr. Greenspan is not one which we seek to raise in this letter of complaint. We only wish to point out, however, that Dr. Greenspan's solicitation of support for the Center led others to understand that the application was on behalf of the Northern

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Virginia Dialysis Center, an entity in which Dr. Greenspan has never owned any interest. See attached Exhibit E from the Mayor of Manassas, Virginia. In Dr. Greenspan's deposition, he acknowledged that individuals apparently erroneously understood the application for the Woodbridge center to be on behalf of Northern Virginia Dialysis Center, but he did nothing to correct their misunderstandings. See attached Exhibit F.

In summary, I'm greatly disturbed by Dr. Greenspan's solicitation of patients and his attempts to take over my practice. I hold myself and my files available to support the Committee in your investigation.

Sincerely,

Raphael J. Osheroff, M.D.