



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

February 25, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Gwendolyn McNeill Boyd, M.D.
8 Eagleshead Road
Ithaca, New York 14850-9659

Gwendolyn McNeill Boyd, M.D.
1002 Fairfield
Kingstown, NC 28150

Gwendolyn McNeill Boyd, M.D.
Cornell University Health Services
Gannett Health Center
10 Central Avenue
Ithaca, New York 14850

Jude Brearton Mulvey, Esq.
NYS Department of Health
Corning Tower Room 2509
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Gwendolyn McNeill Boyd, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.00-60) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 that reads "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

**DETERMINATION
AND
ORDER**

BPMC - 00 - 60

IN THE MATTER

OF

GWENDOLYN MCNEILL BOYD, M.D.

ROBERT A. MENOTTI, M.D., (Chair), WALTER T. GILSDORF, M.D. and CLAUDIA GABRIEL, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10) and §230(12) of the Public Health Law.

MARC P. ZYLBERBERG, ESQ., ADMINISTRATIVE LAW JUDGE, ("ALJ") served as the Administrative Officer.

The Department of Health appeared by **JUDE BREARTON MULVEY, ESQ.**, Assistant Counsel.

GWENDOLYN MCNEILL BOYD, M.D., did not appeared personally and was not represented by counsel.

Evidence was received and examined, including a witnesses who was sworn or affirmed. A transcript of the proceeding was made. After consideration of the record, the Hearing Committee issues this Determination and Order, pursuant to the Public Health Law and the Education Law of the State of New York.

PROCEDURAL HISTORY

A Commissioner’s Order and Notice of Hearing, dated February 4, 2000, and a Statement of Charges, dated February 3, 2000, were issued by **ANTONIA C. NOVELLO, M.D., M.P.H.**, as Commissioner of Health of the State of New York.

Said Order, Notice of Hearing and Statement of Charges, were served on Respondent as hereinafter set forth.

Date of Commissioner’s Order and Notice of Hearing:	February 4, 2000
Date of Service of Order and Notice of Hearing:	February 7, 2000
Date of Statement of Charges:	February 3, 2000
Date of Service of Statement of Charges:	February 7, 2000
Answer to Statement of Charges:	None Filed
Pre-Hearing Conference Held:	NONE
Hearing Held:	February 14, 2000
Witness called by the Petitioner, Department of Health:	Ronald J. Dougherty
Witnesses called by the Respondent, Gwendolyn McNeill Boyd, M.D.:	NONE
Deliberations Held:	February 14, 2000

STATEMENT OF CASE

The State Board for Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York (§230 et seq. of the Public Health Law of the State of New York [hereinafter “**P.H.L.**”]).

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct (“**Department**”) pursuant to §230 of the P.H.L.

These proceedings were commenced with the issuance of a Commissioner’s Order (“**Order**”) which summarily suspended Respondent’s license to practice medicine in the State of New York, upon a finding by the Commissioner of Health that Respondent’s continued practice presented an imminent danger to the health of the People of New York State. The Order was accompanied by a Statement of Charges setting forth two specifications of professional misconduct.

GWENDOLYN MCNEILL BOYD, M.D., (“**Respondent**”) is charged with: (1) practicing the profession (of medicine) while impaired by alcohol in violation of the Education Law of the State of New York (“**Education Law**”)¹ and (2) being a habitual user of alcohol or having a psychiatric condition which impairs her ability to practice medicine, in violation of the Education Law².

The charges concern Respondent’s conduct during a period beginning in January 1998 until the date of the Hearing. A copy of the Commissioner’s Order and Notice of Hearing and Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. These facts represent evidence and testimony found persuasive by the Hearing Committee in arriving at a particular finding. All Findings and Conclusions herein were unanimous.

¹ Education Law §6530(7) and First Specification of Department’s Exhibit # 1.

² Education Law §6530(8) and Second Specification of Department’s Exhibit # 1.

The State, who has the burden of proof, was required to prove its case by a preponderance of the evidence. All Findings of Fact made by the Hearing Committee were established by at least a preponderance of the evidence.

1. Respondent was authorized to practice medicine in New York State by the issuance of license number 197452 by the New York State Education Department (Department's Exhibits # 1 & # 3)³.

2. Respondent is currently registered with the New York State Education Department to practice medicine for the period July 1, 1998 through June 30, 2000 (Department's Exhibits # 1 & # 3).

3. Respondent is not currently authorized to practice medicine in New York because her license was summarily suspended on February 4, 2000 by service of the Commissioner's Summary Order (Department's Exhibit # 1).

4. Douglas Boyce attempted to personally serve the Commissioner's Order, Notice of Hearing and Statement of Charges on Respondent at her last known address of 8 Eagleshead Road, Ithaca, New York, on 2 occasions. Franklin Delano Sutton attempted to personally serve the Commissioner's Order, Notice of Hearing and Statement of Charges on Respondent at her known address of 1002 Fairfield, Kingston, North Carolina on 6 occasions. Melissa Keegan served the Commissioner's Order, Notice of Hearing and Statement of Charges on Respondent at both of the above addresses by certified mail. (Department's Exhibit # 2); [T-7-10]⁴.

5. The State Board for Professional Medical Conduct has obtained personal jurisdiction over Respondent (Department's Exhibit # 2); (determination made by the ALJ [T-11]).

³ Refers to exhibits in evidence submitted by the New York State Department of Health (Department's Exhibit) (no exhibits were submitted by Respondent).

⁴ Numbers in brackets refer to Hearing transcript page numbers [T-].

6. Ronald J. Dougherty, M.D., graduated from Upstate Medical School, in New York in 1958. Dr. Dougherty has been the medical director of Pelion, Inc., a prescription drug misuse program in Syracuse, since 1981. Dr. Dougherty testified as the State's expert witness (Department's Exhibit # 6); [T-17-33].

7. Respondent has not filed a written answer to each (or any) of the charges and allegations contained in the Statement of Charges (P.H.L. §230[10][c]).

8. Paragraphs A and B of the Factual Allegations contained in the February 3, 2000 Statement of Charges are deemed admitted by the Hearing Committee by operation of law (P.H.L. §230[10][c]); (See Appendix I).

9. The Hearing Committee finds that the charge of professional misconduct within the meaning of Education Law §6530(7) and (8) are deemed admitted by operation of law (P.H.L. §230[10][c]); (See Appendix I).

10. Respondent, on a number of occasions during 1998 and 1999 practiced medicine while impaired by alcohol (Department's Exhibits # 5, 7, 8, 9, 10 and 11); [T-24].

11. Respondent has been a habitual abuser of alcohol for more than one year (Department's Exhibits # 5, 7, 8, 9, 10 and 11); [T-20-21].

12. Respondent has difficulty controlling her anger, even in clinical circumstances (Department's Exhibits # 5, 7, 8, 9, and 10); [T-32].

13. Respondent failed to abide by the requirements of the Committee for Physicians' Health of the Medical Society of the State of New York ("CPH") (Department's Exhibit # 5); [T-21, 22-23, 25-27, 29].

CONCLUSIONS OF LAW

The Hearing Committee makes the following conclusions, pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee concludes that Factual Allegations A and B from the February 3, 2000, Statement of Charges, are **SUSTAINED**:

Based on the above, the complete Findings of Fact and the entire record, the Hearing Committee concludes that the first and second Specifications of Charges are **SUSTAINED**.

DISCUSSION

Respondent is charged with two specifications alleging professional misconduct within the meaning of §6530 of the Education Law.

Dr. Ronald Dougherty, as the State's expert, had no professional association with Respondent. The Hearing Committee determined that Dr. Dougherty presented a credible, direct and forthright response to all questions posed.

Respondent failed to appear and therefore did not offer any testimony.

Using the above understanding, the Hearing Committee unanimously concludes that the Department of Health has shown by a preponderance of the evidence that Respondent's conduct constituted professional misconduct under the laws of New York State. The Department of Health has met its burden of proof as to the specifications of misconduct contained in the February 3, 2000 Statement of Charges.

I. Practicing the Profession While Impaired by Alcohol

Respondent is charged with professional misconduct by reason of her having practiced the profession while impaired by alcohol in violation of Education Law §6530(7).

The testimony and evidence presented by the Department at the hearing demonstrates that Respondent suffers from alcohol dependence, has a history of alcohol dependence and has abused alcohol. Furthermore, by not appearing at the hearing and, more importantly, by leaving CPH, Respondent has shown that her ability to practice medicine with unimpaired judgment is questionable. Respondent made little effort to rectify her situation through cooperation with the CPH. The continued practice of medicine by Respondent in such circumstances is unacceptable.

The Hearing Committee agrees that Respondent's history of alcohol and uncontrolled periods of anger demonstrate that she is impaired and that such impairment affects her ability to practice medicine.

The Hearing Committee concludes that the continued practice of medicine by Respondent would constitute an imminent danger to the public particularly in light of Respondent's failure to cooperate with the CPH.

The Hearing Committee determines and concludes that Respondent has practiced medicine at Gannett Health Services, Cornell University in Ithaca, New York while impaired by alcohol in violation of Education Law §6530(7).

II. Being a Habitual User of Alcohol Which Impairs the Ability to Practice

Respondent is charged with professional misconduct by reason of his having been a habitual user of alcohol which impairs the ability to practice in violation of Education Law §6530(8).

Respondent's history of alcohol use, as outlined by the Department's expert and by the documents, indicated habitual use. In addition, Respondent was described as having significant outbursts of anger which occurred in front of staff, students and patients. Some of these outbursts may be linked to the alcohol use. The Hearing Committee also believes that some of the outbursts may be linked to other emotional problems that need to be addressed by Respondent before she is allowed to continue to practice medicine.

The Hearing Committee determines and concludes that Respondent has practiced medicine at Gannett Health Services, Cornell University in Ithaca, New York while being a habitual abuser of alcohol in violation of Education Law §6530(8).

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact, Conclusions of Law and Discussion set forth above, unanimously determines that Respondent is guilty of professional misconduct under the definitions of §6530 of the Education Law and under §230 of the P.H.L. The Hearing Committee unanimously determines that Respondent's license to practice medicine in New York State should be REVOKED.

This determination is reached after due and careful consideration of the full spectrum of penalties available pursuant to P.H.L. §230-a, including:

(1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) the imposition of monetary penalties; (8) a course of education or training; (9) performance of public service and (10) probation.

Respondent's failure to cooperate with CPH, failure to cooperate with the Office of Professional Medical Conduct, and failure to appear at the Hearing indicates to the Hearing Committee that she is not interested or able to maintain her license to practice medicine in the State of New York. The Hearing Committee has no reason to believe that Respondent would comply with any sort of monitoring, probation or any conditions which could be imposed under the Public Health Law. Respondent has had a number of chances and support options through her in-patient treatment and CPH offers. Respondent has failed to make use of her opportunities. The Hearing Committee believes that Respondent is an accident waiting to happen who has violated the public trust by practicing medicine while impaired and while being a habitual abuser of alcohol.

Respondent has shown little inclination to take actions which can alleviate her condition of alcohol abuse and impairment. The only recourse for the Hearing Committee in such circumstance is to prevent Respondent from practicing medicine by revoking her license in New York.

Respondent's conduct shows signs of deficient moral character and judgment which can not be tolerated. The Hearing Committee considers Respondent's misconduct to be very serious. With a concern for the health and welfare of patients in New York State, the Hearing Committee determines that revocation of Respondent's license is the appropriate sanction to impose under the circumstances.

By execution of this Determination and Order, all members of the Hearing Committee certify that they have read and considered the complete record of these proceedings.

ORDER

Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First and Second Specifications of professional misconduct from the Statement of Charges (Department's Exhibit # 1) are **SUSTAINED**, and
2. Respondent's license to practice medicine in the State of New York is hereby **REVOKED**.

DATED: Syracuse, New York
February 24, 2000



ROBERT A. MENOTTI, M.D. (Chair)
WALTER T. GILSDORF, M.D.
CLAUDIA GABRIEL

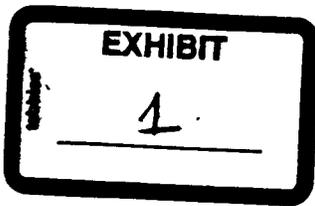
Gwendolyn McNeill Boyd, M.D.
8 Eagleshead Road
Ithaca, NY 14850-9659

Gwendolyn McNeill Boyd, M.D.
1002 Fairfield
Kingstown, NC 28150

Gwendolyn McNeill Boyd, M.D.
Cornell University Health Services
Gannett Health Center
10 Central Avenue
Ithaca, NY 14850

Jude Brearton Mulvey, Esq.
Assistant Counsel
New York State Department of Health
Division of Legal Affairs
Empire State Plaza
Corning Tower Building, Room 2509
Albany, NY 12237-0032

APPENDIX I



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

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IN THE MATTER : COMMISSIONER'S
OF : ORDER AND
GWENDOLYN MCNEILL BOYD, M.D. : NOTICE OF HEARING

-----X

TO: Gwendolyn McNeill Boyd, M.D.
8 Eagles Head Road
Ithaca, New York 14853

The undersigned, Antonia C. Novello, M.D., M.P.H.,
Commissioner of the New York State Department of Health, after an
investigation, upon the recommendation of a committee on
professional medical conduct of the State Board for Professional
Medical Conduct, and upon the Statement of Charges attached
hereto and made a part hereof, has determined that the continued
practice of medicine in the State of New York by Gwendolyn
McNeill Boyd, M.D., the Respondent, constitutes an imminent
danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law Section 230(12),
that effective immediately, Respondent, shall not practice
medicine in the State of New York. This Order shall remain in
effect unless modified or vacated by the Commissioner of Health
pursuant to N.Y. Pub. Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to
the provisions of N.Y. Pub. Health Law Section 230, and N.Y.

State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 14th day of February, 2000 at 10 A.M. at the Holiday Inn, Carrier Circle, East Syracuse, 13057, tel. no.:(315) 437-2761 and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on her behalf, to issue or have subpoenas issued on her behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against her. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park

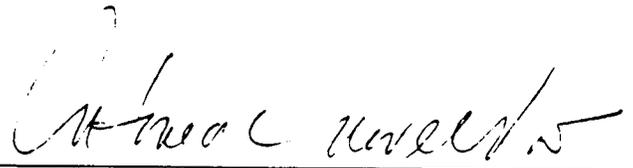
Place, 433 River Street, 5th Floor, Troy, New York 12180 (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW
YORK PUBLIC HEALTH LAW SECTION 230-a. YOU
ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT
YOU IN THIS MATTER.

DATED: Albany, New York

2/14, 2000


ANTONIA C. NOVELLO, M.D., M.P.H.
Commissioner

Inquiries should be directed to:

Jude Brearton Mulvey
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237-0032
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
GWENDOLYN MCNEILL BOYD, M.D. : CHARGES

-----X

GWENDOLYN MCNEILL BOYD, M.D., the Respondent, was authorized to practice medicine in New York State on October 13, 1994 by the issuance of license number 197452 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department with a registration address of Cornell University Health Services, Gannett Health Center, 10 Central Avenue, Ithaca, New York.

FACTUAL ALLEGATIONS

A. Respondent, on various occasions since approximately January 1998, practiced medicine while impaired by alcohol.

B. Respondent, since approximately January 1998, has been a habitual abuser of alcohol and/or is dependent upon alcohol and/or has been a habitual user of alcohol.

SPECIFICATIONS

FIRST SPECIFICATION

PRACTICING WHILE IMPAIRED

Respondent is charged with professional misconduct as defined by N.Y. Education Law Section 6530(7) by practicing the profession of medicine while impaired by alcohol, drugs, physical disability or a mental disability as alleged:

1. The facts set forth in Paragraphs A and/or B.

SECOND SPECIFICATION

IMPAIRMENT

Respondent is charged with professional misconduct as defined by N.Y. Education Law Section 6530(8) by being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbituates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice as alleged in:

2. The facts set forth in Paragraphs A and/or B.

DATED: *February 3*, 2000
Albany, New York

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