



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.  
*Commissioner*

Paula Wilson  
*Executive Deputy Commissioner*

April 13, 1993

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Michael A. Hiser, Esq.  
NYS Department of Health  
Room 2429 - Corning Tower Bldg.  
Empire State Plaza  
Albany, New York 12237

Howard D. Jones, M.D.  
c/o POSTL  
5430 N. Spaulding Street  
Chicago, Illinois 60625

Howard D. Jones, M.D.  
424 N. Harvey  
Oak Park, Illinois 60302

**RE: In the Matter of Howard D. Jones, M.D.**

Dear Mr. Hiser and Dr. Jones:

Enclosed please find the Determination and Order (No. BPMC-93-61) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

New York State Department of Health  
Office of Professional Medical Conduct  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

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 than 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 (p), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he 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 all action 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.

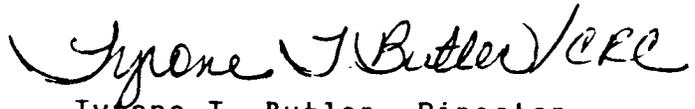
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Corning Tower -Room 2503  
Empire State Plaza  
Albany, New York 12237-0030

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.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler". The signature is written in black ink and is positioned above the typed name.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:crc  
Enclosure

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

-----X  
IN THE MATTER : DETERMINATION  
OF : AND  
HOWARD D. JONES, M.D. : ORDER  
-----X  
ORDER NO. BPMC-93-61

A Notice of Hearing and Statement of Charges, both dated November 12, 1992, were served upon the Respondent, Howard D. Jones, M.D. JOHN T. PRIOR, M.D. (Chair), REV. JAMES H. MILLER, and TERESA S. BRIGGS, M.D., Ph.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. A hearing was held on January 12, 1993. The Department of Health appeared by Michael A. Hiser, Esq., Assistant Counsel. The Respondent did not appear personally and was not represented by counsel. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

**STATEMENT OF CASE**

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law

Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

#### **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 Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Howard D. Jones, M.D. (hereinafter "Respondent") was authorized to practice medicine in New York State on October 20, 1970, by the issuance of license number 136409 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. Respondent was last registered to practice medicine in New York

state for the period January 1, 1983 through December 31, 1985.  
(Pet. Ex. #6).

2. By a Complaint and Statement of Charges (No. 02-89-246), filed on February 28, 1991, the Iowa State Board of Medical Examiners (hereinafter "the Iowa Board") charged Respondent with (1) "professional incompetency" pursuant to Section 147.55(2) of the Code of Iowa, and (2) "practice harmful or detrimental to the public" pursuant to Section 147,55(3) of the Code of Iowa. These charges related to Respondent's provision of "substandard anesthesia care" to four patients between December 19, 1988 and April 9, 1990. (Pet. Ex. #7).

3. By Order No. 02-89-246, dated July 2, 1991, the Iowa Board placed Respondent's license to practice medicine and surgery in the State of Iowa on probation for a period of five years, subject to various terms and conditions stated therein. The Order was based on an informal settlement between Respondent and the Iowa Board. (Pet. Ex. #7).

4. The terms and conditions of the Order provide, inter alia, as follows:

1. Respondent shall restrict his practice of medicine and surgery to a residency program until further order of the Iowa Board;
2. Respondent shall abstain from the use of alcohol;
3. Respondent shall not possess or use any controlled or prescription drug in any form unless prescribed for him by a duly licensed,

treating physician or other qualified medical practitioner;

4. Respondent shall submit to witnessed blood urine samples on demand by a designee of the Iowa Board. The samples shall be used for alcohol and drug screening, all cost of which shall be paid by Respondent;

5. Respondent shall continue treatment for alcoholism with a physician or counselor approved by the Iowa Board until discharged from treatment with the approval of the Board;

6. Respondent shall attend at least one meeting of Alcoholics Anonymous or a similar organization weekly. Quarterly reports to be submitted by Respondent must document such attendance;

7. Respondent shall either: pass the SPEX examination, pass a Board certification examination, or complete a three year residency program during the period of probation. If Respondent fails to complete one of these three alternative requirements, the period of probation shall continue indefinitely under the full terms and conditions until one of these three alternative requirements is completed.

(Pet. Ex. #7).

5. Respondent entered into a family practice residency program at Broadlawns Medical Center. However, he was discharged from the program following the end of the first year. (Pet. Ex. #8).

6. Probation reports submitted to the Iowa Board by the probation officer supervising Respondent document the fact that Respondent violated the terms of his probation by failing to submit

quarterly reports from Respondent or from his aftercare counselor. The reports also document several complaints regarding Respondent's medical care of two patients during his residency. (Pet. Ex. #8).

#### **CONCLUSIONS OF LAW**

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that the Iowa State Board of Medical Examiners took disciplinary action against Respondent, following issuance of a Complaint and Statement of Charges. The charges alleged numerous allegations of substandard anesthesia care rendered to four patients by Respondent. In a stipulated settlement, Respondent agreed to a five year term of probation, with significant restrictions on his medical license.

The Hearing Committee further concluded that Respondent's conduct with regard to the four patients named in the charges, would constitute professional misconduct under Education Law Section 6530, if committed in New York State. More specifically, Respondent's conduct would constitute negligence on more than one occasion, in violation of Education Law Section 6530(3), gross negligence, in violation of Section 6530(4), incompetence on more than one occasion, in violation of Section 6530(5), and/or gross incompetence, in violation of Section 6530(6).

Based upon the above, the Hearing Committee unanimously concluded that the Specification of professional misconduct contained in the Statement of Charges should be sustained.

**DETERMINATION AS TO PENALTY**

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The record established the fact that Respondent was disciplined by the Iowa Board due to serious deficiencies in the anesthesia care which he rendered to four patients. Further, it is apparent that Respondent's problems are due, at least in part, to alcoholism. The reports submitted by his Iowa probation officer (Petitioner's Exhibit #8) demonstrate that Respondent's rehabilitation appears to be in jeopardy. He violated the terms of probation by failing to submit quarterly reports documenting his attendance at Alcoholics Anonymous meetings, and failed to document continuing treatment for alcoholism. Further, he was discharged from his residency program after the first year. It appears likely that Respondent, has not properly dealt with his problems.

Additional evidence of Respondent's unwillingness or inability to deal with his problems can be deduced from his

repeated efforts to avoid service of the charges in this matter. (See, Pet. Ex. #2-5, 9; Tr., pp. 16-17). Given the totality of the circumstances, the Hearing Committee unanimously concluded that revocation is the only appropriate sanction.

**ORDER**

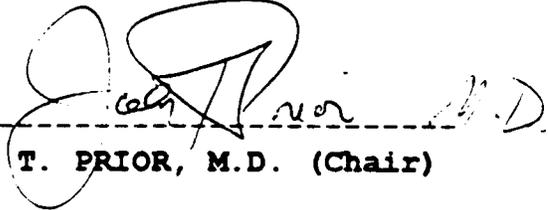
Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct contained in the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED**, and

2. Respondent's license to practice medicine in New York State is **REVOKED**.

DATED: Albany, New York  
April 4, 1993

April 4

  
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**JOHN T. PRIOR, M.D. (Chair)**

REV. JAMES H. MILLER  
TERESA S. BRIGGS, M.D., Ph.D.

TO: Michael A. Hiser, Esq.  
Assistant Counsel  
New York State Department of Health  
Room 2429 - Corning Tower Building  
Empire State Building  
Albany, New York 12237

Howard D. Jones, M.D.  
c/o POSTL  
5430 N. Spaulding Street  
Chicago, Illinois 60625

Howard D. Jones, M.D.  
424 N. Harvey  
Oak Park, Illinois 60302

APPENDIX I

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

-----X  
IN THE MATTER :  
OF : NOTICE OF  
HOWARD D. JONES, M.D. : REFERRAL  
: PROCEEDING  
: X  
-----X

TO: HOWARD D. JONES, M.D.  
c/o POSTL  
5430 N. Spaulding Street  
Chicago, Illinois 60625

*Ref* EXHIBIT 1  
ID.   
DATE: 1-12-93  
BETSY HELM, CSR, RPR

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1992) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 12th day of January, 1993 at 1:15 p.m. in the afternoon of that day at Room 2509, 25th Floor, Corning Tower Building, Empire State Plaza, Albany, New York 12237.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is

attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to Larry Storch, Administrative Law Judge, New York State Department of Health, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, as well as the Department of Health attorney indicated below, on or before December 31, 1992.

You may file a written answer, brief, and affidavits with the Committee. Seven copies of all papers you wish to submit must be filed with Judge Storch at the address indicated above on or before January 8, 1993 and a copy of all papers must be

served on the same date on the Department of Health attorney indicated below. 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 proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Judge Storch at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A  
DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE  
TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR

IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE  
URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN  
THIS MATTER.

DATED: Albany, New York  
*November 12, 1992*

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

Inquiries should be addressed to:

Michael A. Hiser  
Assistant Counsel  
Division of Legal Affairs  
Bureau of Professional Medical Conduct  
Room 2429  
Corning Tower Building  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
HOWARD D. JONES, M.D. : CHARGES

-----X

HOWARD D. JONES, M.D., the Respondent, was authorized to practice medicine in New York State on October 20, 1978, by the issuance of license number 136409 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. Respondent was last registered to practice medicine in New York State on January 1, 1983 through December 31, 1985.

SPECIFICATION OF CHARGES

HAVING DISCIPLINARY ACTION TAKEN AGAINST  
RESPONDENT BY DULY AUTHORIZED PROFESSIONAL  
DISCIPLINARY AGENCY OF ANOTHER STATE

Respondent is charged with having disciplinary action taken against him by the duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action; i.e. the placing of his license on probation for a period of five years would, if committed in New York State, have constituted professional misconduct under the

laws of New York State, within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1992), in that Petitioner charges:

By Complaint and Statement of Charges No. 02-89-246, filed February 28, 1991, the Iowa State Board of Medical Examiners ("the Iowa Board"), the duly authorized professional disciplinary agency of the State of Iowa, charged Respondent with (1) "professional incompetency" under Sec. 147.55(2) of the Code of Iowa, and (2) "practice harmful or detrimental to the public" under Sec. 147.55(3) of the Code of Iowa. These charges related to Respondent's provision of "substandard anesthesia care" to four patients between December 19, 1988 and April 9, 1990.

By Order No. 02-89-246, dated July 2, 1991 ("the Order"), the Iowa Board placed the Respondent's license to practice medicine and surgery in the State of Iowa on probation for a period of five years, subject to various terms and conditions stated therein. The Order was based on an informal settlement between the Respondent and the Board.

The terms and conditions of the Order provide, among other things, as follows:

1. The Respondent shall restrict his practice of medicine and surgery to a residency program until further order of the Board.
2. The Respondent shall abstain from the use of alcohol.
3. The Respondent shall not possess or use any controlled or prescription drug in any form unless prescribed for

him by a duly licensed, treating physician or other qualified medical practitioner.

4. The Respondent shall submit to witnessed blood urine samples on demand by a designee of the Board. The samples shall be used for alcohol and drug screening, all cost of which shall be paid by the Respondent.
5. The Respondent shall either: pass the SPEX examination, or pass a Board certification examination, or complete a three year residency program during the period of probation. If the Respondent fails to complete one of these three alternative requirements, the period of probation shall continue indefinitely under the full terms and conditions until one of these three alternative requirements is completed.

The conduct described in the Complaint and Statement of Charges No. 02-89-246 concerning Respondent's care of four patients resulted in disciplinary action being taken against Respondent's license to practice medicine in the State of Iowa. That conduct would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law Secs. 6530(3), 6530(4), 6530(5), and/or 6530(6).

DATED: Albany, New York  
*November 12, 1992*

  
\_\_\_\_\_  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical  
Conduct