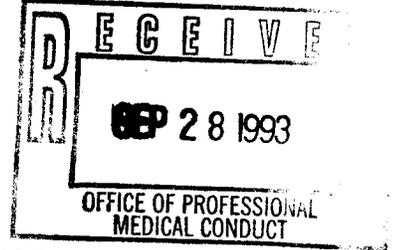


# STATE OF NEW YORK DEPARTMENT OF HEALTH

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*



September 22, 1993

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Joseph Huberty, Esq.  
NYS Department of Health  
Empire State Plaza  
Corning Tower - Room 2429  
Albany, New York 12237

Alphonse J. Cipriani, M.D.  
605 Bank Tower  
Pittsburgh, PA 15222

Bourse Shop at Virginia Manor  
2275 Swallowhill Road  
Building 1200  
Pittsburgh, PA 15220

**RE: In the Matter of Alphonse J. Cipriani, M.D.**

Dear Mr. Huberty and Dr. Cipriani:

Enclosed please find the Determination and Order (No. BPMC-93-140) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 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 (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.

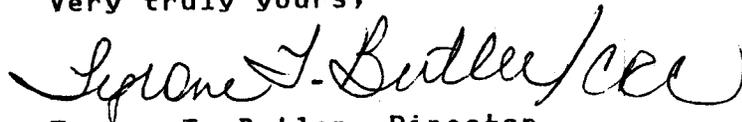
The notice of review served on the Administrative Review Board should be forwarded to:

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" followed by a large, stylized flourish that resembles the letters "CC".

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 ;  
OF ;  
ALPHONSE J. CIPRIANI, M.D. ;  
-----X

DETERMINATION  
AND  
ORDER  
OF THE  
HEARING  
COMMITTEE  
BPMC NO.  
93- 140

A Notice of Hearing and Statement of Charges dated June 3, 1993 were served upon ALPHONSE J. CIPRIANI, M.D. (hereinafter referred to as "Respondent"). The undersigned Hearing Committee consisting of ROBERT M. KOHN, M.D., CHAIRPERSON, DAVID T. LYON, M.D. AND IRVING S. CAPLAN, was duly designated and appointed by the State Board for Professional Medical Conduct. JONATHAN M. BRANDES, ESQ., Administrative Law Judge, served as Administrative Officer.

A hearing was conducted on July 28, 1993 pursuant to section 230 (10)(a) of the Public Health Law and sections 301-307 and 401 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of section 6530 of the New York Education Law by Respondent. The hearing was at the Offices of the New York State Department of Health, Corning Tower, Albany, New York.

The Department of Health appeared by Joseph Huberty, Esq., of counsel to Peter J. Millock, Esq., General Counsel. Respondent neither appeared in person nor by counsel. Evidence was received and a transcript of this proceeding was made.

### STATEMENT OF CASE

The proceeding was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of New York 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 the expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon a licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to New York Education Law Section 6530(9)(b) based upon a finding of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State. The charges are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges which is attached to this Determination and Order (Appendix I).

### SIGNIFICANT LEGAL RULINGS

The Administrative Law Judge found that the State had made service upon Respondent pursuant to statute and that therefore, jurisdiction of Respondent had been established.

**FINDINGS OF FACT**  
**AND**  
**CONCLUSIONS**

The Committee made its findings of fact and conclusions on the record. A transcript of the findings of fact and conclusions is attached to this determination and order and made a part of it.

**DETERMINATION AS TO PENALTY**

The Hearing Committee, pursuant to the Findings of Fact and Conclusions set forth in the transcript which is attached to this determination and order made a determination as to penalty. This also was recited on the record and is attached to this decision and order and made a part of it.

**ORDER**

Based upon the foregoing it is hereby ordered that:

1. The specifications of professional misconduct contained in the Statement of Charges in this matter be **SUSTAINED**; and
2. Respondent shall be issued a **Censure and Reprimand**.

DATED: Buffalo, New York

Sept 17, 1993

  
ROBERT M. KOHN, M.D.  
Chairperson

DAVID T. LYON, M.D.  
SISTER MARY THERESA MURPHY

TO: Joseph Huberty, Esq.  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Albany, New York

Alphonse J. Cipriani, M.D.  
605 Bank Tower  
Pittsburgh, PA. 15222

Bourse Shop at Virginia Manor  
2275 Swallowhill Road  
Building 1200  
Pittsburgh, Pa. 15220

1 MR. CAPLAN: Okay.

2 MR. HUBERTY: It is -- under Pennsylvania  
3 statute, it is illegal to practice unless you're  
4 registered; as is the case in New York, I might  
5 add.

6 MR. CAPLAN: Okay. Thank you.

7 JUDGE BRANDES: Gentlemen -- and with your  
8 permission, Dr. Kohn -- I think we can conclude  
9 this record and retire to deliberate.

10 DR. KOHN: Yes.

11 MR. HUBERTY: The State rests.

12 (Executive Session from 1:40 p.m.  
13 to 1:50 p.m.)

14 JUDGE BRANDES: Back on the record.

15 Let the record show that the Committee has  
16 had an opportunity to consider the evidence  
17 before it, and I will now endeavor to recite on  
18 the record their findings of fact and  
19 conclusions.

20 I will then compose a written order. This  
21 decision will be attached to it; and this  
22 decision, plus the written order signed by the  
23 Chairperson, will conclude this matter.

24 The findings of fact are taken directly

1 from the statement of charges. By order of the  
2 Pennsylvania State Board of Medicine,  
3 hereinafter Pennsylvania Board, dated May 13,  
4 1982, effective May 23, 1982, Respondent's  
5 license to practice medicine in the State of  
6 Pennsylvania was suspended for a period of not  
7 less than 30 days with restoration  
8 (reinstatement) thereof provisioned upon certain  
9 conditions to be met by Respondent with proof of  
10 compliance filed with the Pennsylvania Board.

11 Respondent's license to practice was not  
12 reinstated until August 17, 1982. By order  
13 dated April 14, 1986, the Pennsylvania Board  
14 found that Respondent had actively practiced  
15 medicine during the period of suspension (May  
16 23, 1982 to August 17, 1982).

17 During the month of May, 1982, the rules  
18 and regulations of the Pennsylvania Board, 49 PA  
19 code, section 17.251 (a) (9) provided that the  
20 term "unprofessional conduct" shall include but  
21 not be limited to continuing to practice  
22 medicine while the licensee's license to  
23 practice had lapsed, was suspended or was  
24 revoked.

1           The Board disciplined Respondent by  
2           revoking Respondent's license to practice  
3           medicine in that State, requiring that  
4           Respondent actively serve one year of a  
5           revocation period, suspending the balance  
6           thereof with certain conditions set forth in the  
7           order.

8           The active practice of medicine in  
9           violation of an order or the terms and/or  
10          conditions of probation, if committed in New  
11          York State, would constitute professional  
12          misconduct pursuant to New York Education Law  
13          6530 (29).

14          By order of the Pennsylvania Board made and  
15          entered June 24, 1992, Respondent was  
16          disciplined for having been found to have  
17          willfully failed to register. He was  
18          reprimanded by the Pennsylvania Board, and a  
19          civil penalty of \$1500 was imposed.

20          The basis for the disciplinary action by  
21          the Pennsylvania Board was Respondent's practice  
22          of medicine treating over 700 patients while his  
23          license to do so had lapsed as a consequence of  
24          his neglect and refusal to register with the

1 Board during the period from January 1, 1991 to  
2 March 13, 1991.

3 Willful failure to register by an actively  
4 practicing licensee in New York State  
5 constitutes professional misconduct pursuant to  
6 New York Education Law section 530, subdivision  
7 12.

8 The Committee concludes as follows: The  
9 Committee finds that Respondent has exhibited  
10 signs of being a scofflaw in that he willfully  
11 failed to obtain insurance. However, one of  
12 these issues came up over 11 year ago.

13 The infractions cited by the State and  
14 found by the Commonwealth of Pennsylvania were  
15 indeed infractions against the Commonwealth of  
16 Pennsylvania. That Commonwealth imposed a \$1500  
17 fine and a reprimand.

18 The Committee concludes that the  
19 Commonwealth of Pennsylvania therefore  
20 considered these to be less than extremely  
21 serious in nature.

22 Accordingly, the Committee concludes that  
23 they will hold this Respondent to no higher  
24 standard than he was held to in Pennsylvania.

1 The Committee sees no need for further civil  
2 penalty, and therefore the Committee will  
3 conclude with a censure and reprimand.

4 Dr. Kohn, is that a fair representation of  
5 the Committee's conclusions?

6 DR. KOHN: That is correct by unanimous  
7 decision of the Committee.

8 JUDGE BRANDES: Very good.

9 This part of the transcript will be  
10 combined with the written order which will be  
11 issued in due course.

12 That will conclude these proceedings.

13 (At 1:56 p.m., the proceeding in  
14 the above-entitled matter was  
15 adjourned.)

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Ret. EA. A  
7/28/93  
RWH  
REC'D  
JB  
7/26/93

0

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

-----X  
: IN THE MATTER : NOTICE OF  
: OF : REFERRAL  
: ALPHONSE J. CIPRIANI, M.D. : PROCEEDING  
: :  
-----X

TO: ALPHONSE J. CIPRIANI, M.D.  
605 Bank Tower  
Pittsburg, PA 15222  
  
Bourse Shop at Virginia Manor  
2275 Swallowhill Road - Bldg. 1200  
Pittsburg, PA 15220

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. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 28th day of July at 1:15 o'clock in the afternoon of that day at Corning Tower, Room 2509, Empire State Plaza, 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 the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: NANCY MASSARONI, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before May 24, 1993 .

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address

indicated above on or before May 24, 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 Bureau of Adjudication, 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  
June 3, 1993

*Peter D. Van Buren*

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

Inquiries should be addressed to:

JOSEPH HUBERTY  
Assistant Counsel  
Division of Legal Affairs  
Bureau of Professional Medical Conduct  
Corning Tower Building  
Room 2429  
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  
ALPHONSE J. CIPRIANI, M.D. : CHARGES

-----X

ALPHONSE J. CIPRIANI, M.D., the Respondent, was authorized to practice medicine in New York State on March 10, 1972, by the issuance of license number 111878 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine in New York State. Respondent's address as shown on Respondent's last registration with the New York State Education Department is 605 Bank Tower, Pittsburgh, Pennsylvania 15222.

FACTUAL ALLEGATIONS

A. By Order of the Pennsylvania State Board of Medicine (hereinafter Pennsylvania Board) dated May 13, 1982, effective May 23, 1982, Respondent's license to practice medicine in the State of Pennsylvania was suspended for a period of not less than thirty (30) days with restoration (reinstatement) thereof

provisional upon certain conditions to be met by Respondent with proof of compliance filed with the Pennsylvania Board. Respondent's license to practice was not reinstated until August 17, 1982.

B. By Order dated April 14, 1986 the Pennsylvania Board found that Respondent had actively practiced medicine during the period of his suspension (May 23, 1982 to August 17, 1982). During the month of May, 1982, the Rules and Regulations of the Pennsylvania Board (49 Pa. Code Section 17.251(a)(9)) provided that the term "unprofessional conduct" shall include, but not be limited to, continuing to practice medicine while the licensee's license to practice had lapsed, was suspended or was revoked. The Board disciplined Respondent by revoking Respondent's license to practice medicine in that state requiring that Respondent actively serve one year of that revocation period and suspending the balance thereof on certain conditions set forth in the Order.

C. The active practice of medicine in violation of an Order or the terms and/or conditions of probation, if committed in New York State, would constitute professional misconduct pursuant to N.Y. Educ. Law 6530(29) (McKinney Supp. 1993) [(formerly N.Y. Educ. Law 6509(9) and 8NYCRR 29.1(14)]

D. By Order of the Pennsylvania Board made and entered June 24, 1992, Respondent was disciplined for having been found to have willfully failed to register. He was reprimanded by the Pennsylvania Board and a civil penalty of Fifteen Hundred Dollars (\$1,500.00) was imposed. The basis for the disciplinary action by the Pennsylvania Board was Respondent's practice of medicine treating over 700 patients while his license to do so had lapsed as a consequence of his neglect and refusal to register with the Board during the period from January 1, 1991 to March 13, 1991.

E. Willful failure to register by an actively practicing licensee in New York State constitutes professional misconduct pursuant to N.Y. Educ. Law Section 530(12) (McKinney's Supp. 1993) (formerly N.Y. Educ. Law Section 6509(8))

#### SPECIFICATION OF CHARGES

#### FIRST AND SECOND SPECIFICATIONS HAVING BEEN FOUND GUILTY OF IMPROPER PRACTICE OR PROFESSIONAL MISCONDUCT BY ANOTHER STATE DISCIPLINARY AGENCY

Petitioner charges Respondent with having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would,

if committed in New York State, constitute professional misconduct pursuant to the provisions of N.Y. Educ. Law Section 6530 (9)(b) (McKinney Supp. 1993) (formerly N.Y. Educ. Law Section 6509(5)(b)) in that Petitioner charges.

1. The facts in paragraphs A, B, and/or C, D, and/or E.
2. The facts in paragraphs A, B, and/or C, D, and/or E.

DATED: Albany, New York  
June 3, 1993

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