



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

May 14, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jean Bresler, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Geoffrey H. Simmons, Esq.
Simmons Law Firm
16 West Martin Street - Suite 304
P.O. Box 2223
Raleigh, North Carolina 27602

Celestine Amaefule, M.D.
2300 Wayne Memorial Drive
Goldsboro, North Carolina 27534

RE: In the Matter of Celestine Amaefule, M.D.

Effective Date: 05/21/96

Dear Ms. Bresler, Mr. Simmons and Dr. Amaefule:

Enclosed please find the Determination and Order (No. 96-117) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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 (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 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.

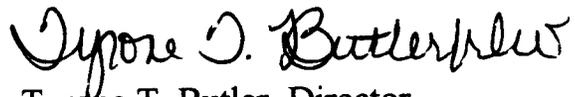
The notice of review served on the Administrative Review Board should be forwarded to:

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

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' and 'B'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:rlw
Enclosure

COPY

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

-----X
IN THE MATTER : DETERMINATION
OF : AND
CELESTINE AMAEFULE, M.D. : ORDER
-----X
BPMC-96-117

A Notice of Referral Proceeding and Statement of Charges, both dated October 5, 1995, were served upon the Respondent, Celestine Amaefule, M.D. **STEPHEN A. GETTINGER, M.D. (Chair), REV. JAMES H. MILLER, and LAXMI V. BAXI, M.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, ESQ., ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. The Department of Health appeared by Jean Bresler, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on May 2, 1996. 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 §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 §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. Although neither Respondent nor an attorney appeared at the hearing, an Answer and Brief were submitted to the Committee by an attorney in North Carolina. This document was incorporated into the record and considered by the Hearing Committee.

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. Celestine Amaefule, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on October 31, 1988 by the issuance of license number 176693 by the New York State Education Department. (Pet. Ex. #3).

2. On or about May 3, 1994, the Maryland Board of Physician Quality Assurance (hereinafter the "Maryland Board"), charged Respondent with failing to meet appropriate medical standards with regard to his treatment of seven patients. As a result of the charges a conference was held and a consent order, signed by Respondent, was issued by the Maryland Board. (Pet. Ex. #4A and 4B).

3. The consent order provides that as a matter of law the Respondent failed to meet appropriate standards for the delivery of medical care, as determined by a peer review, in violation of Maryland Health Occ. Code Ann. §14-404(a)(22) (1991 Repl. Vol.). (Pet. Ex. #4A).

4. The Maryland Board ordered that Respondent receive a reprimand. The Board further ordered that Respondent could not practice medicine in the State of Maryland until he first appears before a case resolution conference committee of the Maryland Board, which will impose any appropriate conditions under which Respondent may resume the practice of medicine in Maryland. (Pet. Ex. #4A).

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 in this matter. The preponderance of the evidence demonstrates that disciplinary action was taken against Respondent's Maryland medical license by the Maryland Board, following the institution of a disciplinary action by that Board. Specifically, Respondent was reprimanded by the Board. Moreover, the Maryland Board placed certain conditions upon Respondent which must be satisfied before he can resume practice in that state.

The Maryland disciplinary action was based upon the results of a peer review of Respondent's emergency room practice. The review revealed repeated instances of Respondent's failure to appropriately diagnose and treat a variety of serious medical conditions. The Hearing Committee unanimously concluded that Respondent's conduct, if committed within New York State, would constitute professional misconduct in violation of Education Law § 6530(3) [negligence on more than one occasion] and 6530(5) [incompetence on more than one occasion]. Accordingly, the Committee voted to sustain the specification of professional misconduct contained in the Statement of Charges.

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 disciplinary action taken by the Maryland Board was based on serious allegations of repeated acts of negligence and/or incompetence regarding Respondent's treatment of seven patients. (See, Pet. Ex. #4B). These extensive shortcomings in Respondent's medical skills clearly warrant revocation. Respondent failed to appear at the hearing and did not any evidence which might mitigate the sanction to be imposed.

Respondent's suggested sanction - to merely require Respondent's attendance at a "case resolution conference committee" - is not available in New York State, nor does the Committee believe it to be appropriate. Respondent has demonstrated significant deficits in his medical skills and knowledge. In the event that he should ever decide to seek re-licensure in New York, he must bear the burden of demonstrating his fitness to practice.

ORDER

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

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is

SUSTAINED;

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

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
May 11, 1996


STEPHEN A. GETTINGER, M.D. (CHAIR)

REV. JAMES H. MILLER
LAXMI V. BAXI, M.D.

TO: Jean Bresler, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Celestine Amaefule, M.D.
2300 Wayne Memorial Drive
Goldsboro, North Carolina 27534

Geoffrey H. Simmons, Esq.
Simmons Law Firm
16 West Martin Street - Suite 304
P.O. Box 2223
Raleigh, North Carolina 27602

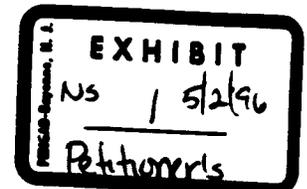
APPENDIX I

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

IN THE MATTER
OF
CELESTINE AMAEFULE, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: CELESTINE AMAEFULE, M.D.
2300 Wayne Memorial Drive
Suite G
Goldsboro, NC 27534



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1996) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1996). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on May 2, 1996, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

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: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

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, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §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 the 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: New York, New York
OCT 5, 1995



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Jean Bresler
Associate Counsel
NYS Department of Health
Division of Legal Affairs
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2615

IN THE MATTER
OF
CELESTINE AMAEFULE, M.D.

STATEMENT
OF
CHARGES

CELESTINE AMAEFULE, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 31, 1988, by the issuance of license number 176693 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 3, 1994 the Maryland Board of Physician Quality Assurance charged the Respondent with failing to meet appropriate medical standards with regard to treatment of seven patients. As a result of the charges a conference was held and a consent order, signed by the Respondent, was issued by the Maryland Board.

The consent order provides that as a matter of law the Respondent failed to meet appropriate standards for delivery of medical care as determined by a peer review in violation of md. Health Occ. Code Ann. §14-404(a)(22)(1991 Repl. Vol.).

The Maryland Board ordered that the Respondent receive a reprimand. The Board further ordered that the Respondent could not practice medicine in the State of Maryland until he first appears before a case resolution conference committee of the Maryland Board, which will

impose any appropriate conditions under which the Respondent may resume the practice of medicine in the State of Maryland.

SPECIFICATION OF CHARGES

Having Had Disciplinary Action Taken

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1995) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or other wise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §6530(3 and or 5), in that Petitioner charges the facts in:

1) Paragraph A.

DATED: October 5, 1995
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct