



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Office of Public 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*

July 17, 1995

RECEIVED  
JUL 17 1995  
OFFICE OF PROFESSIONAL MEDICAL CONDUCT

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Catherine Cholakis, Esq.  
Assistant Counsel  
NYS Department of Health  
Corning Tower-Room 2438  
Empire State Plaza  
Albany, New York 12237

Robert Mitchell Scovner, M.D.  
2803 Raleigh Road  
Walkersville, Maryland 21793

**RE: In the Matter of Robert Mitchell Scovner, M.D.**

Dear Ms. Cholakis and Dr. Scovner:

Enclosed please find the Determination and Order (No. 95-149) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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, stylized 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

IN THE MATTER  
-OF-  
ROBERT MITCHELL SCOVNER, M.D.

Respondent

DECISION  
AND  
ORDER  
OF THE  
HEARING  
COMMITTEE

BPMC ORDER NO. 95-149

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated April 5, 1995 which were served upon **ROBERT MITCHELL SCOVNER, M.D.**, (hereinafter referred to as "Respondent") at his last known address. **JACK SCHNEE, M.D.**, Chairperson, **F. MICHAEL JACOBIOUS, M.D.**, and **PETER D. KUEMMEL, RPA**, 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. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on June 29, 1995 at the offices of the New York State Department of Health (hereinafter referred to as "The Department"), 5 Penn Plaza, New York, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner") appeared by **DANIEL GUNZBERGER, ESQ.**, Assistant Counsel, Bureau of Professional Medical Conduct. Respondent made no appearance whatsoever. Evidence was received. Legal arguments were heard. A transcript of these proceedings was made.

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

### **STATEMENT OF CASE**

This case 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 Education Law Section 6530(9)(a)(i). In such cases, a licensee is charged with misconduct based upon prior professional disciplinary action or criminal conviction. The scope of this 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)(b) (having been found guilty of improper professional practice or professional misconduct by the authorized disciplinary agency of another state, where the conduct resulting in the discipline would amount to misconduct in this state) and (9)(d) (disciplinary action taken by the authorized disciplinary agency of another state, where the conduct resulting in the discipline would amount to misconduct in this state). The charge herein arises from a Consent Order issued by the Maryland Board of Physician Quality Assurance. The Consent Order was based upon a finding that Respondent failed to meet the applicable standard of care. The allegations in this proceeding and the underlying decision by the Maryland authorities are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

### **FINDINGS OF FACT**

The Committee adopts the factual statement set forth on page one through three of the Statement of Charges (Appendix One) as its findings of fact and incorporates them herein.

## CONCLUSIONS

Respondent in this action did not appear. He has been found by a another state to have failed to meet standards of medica care. His misconduct involves the inappropriate prescriptions for potent analgesics. These are significant charges and warrant a significant penalty.

Given the above findings and the failure of Respondent to make any effort to participate in this proceeding, revocation is the only appropriate remedy.

## ORDER

WHEREFORE, Based upon the forgoing facts and conclusions,

### IT IS HEREBY ORDERED THAT:

1. The Factual allegations in the Statement of Charges are SUSTAINED.  
Furthermore, it is hereby **ORDERED** that;
  
2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are SUSTAINED;  
Furthermore, it is hereby ORDERED that;
  
3. Respondent's license to practice medicine in this state is REVOKED  
Furthermore, it is hereby ORDERED that;

4. This order shall take effect **UPON RECEIPT** or **SEVEN (7) DAYS AFTER MAILING** by Certified Mail.

**Dated:**  
**New York, New York**

July 14, 1995

  
\_\_\_\_\_  
**JACK SCHNEE, M.D., Chairperson**

**F. MICHAEL JACOBUS, M.D.**  
**PETER D. KUEMMEL, RPA**

**TO: CATHERINE CHOLAKIS, ESQ.**  
Assistant Counsel  
Bureau of Professional Medical Conduct  
New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, New York 12237

**ROBERT MITCHELL SCOVNER, M.D.**  
2803 Raleigh Road  
Walkersville, Maryland 21793

**APPENDIX ONE**

PETITIONER'S  
EXHIBIT  
1 FOR ID  
TMB 6/8/95

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

-----X

IN THE MATTER : NOTICE OF  
OF : REFERRAL  
ROBERT MITCHELL SCOVNER, M.D. : PROCEEDING

-----X

TO: Robert M. Scovner, M.D.  
2803 Raleigh Road  
Walkersville, Maryland 21793

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. 1995) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1995). 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 June, 1995 at 10:00 a.m. in the forenoon of that day at Conference Room E, Cultural Education Center, 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 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, on or before June 19, 1995.

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 June 19, 1995 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 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: Albany, New York  
*April 18*, 1995



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

Inquiries should be addressed to:

Catherine Cholakis  
Assistant Counsel  
NYS Department of Health  
Division of Legal Affairs  
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  
ROBERT MITCHELL SCOVNER, M.D. : CHARGES

-----X

ROBERT MITCHELL SCOVNER, M.D., the Respondent, was authorized to practice medicine in New York State by the issuance of license number 090802 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about March 9, 1994, the Maryland State Board of Physician Quality Assurance found Respondent had failed to meet appropriate standards of care for the delivery of quality care in the State of Maryland, in violation of Maryland State statute H.O. §14-404(a)(22).
1. On or about June 29, 1993, Respondent was charged by the State Board of Physician Quality Assurance in Maryland, with the inappropriate prescribing of controlled substances to three separate patients.
  2. By the issuance of a Consent Order dated March 22, 1993, Respondent was found to have "failed to meet the standard of care ... in that the medical

records d[id] not contain adequate information for another health professional to assume the patient's medical care and the medical records contain insufficient information regarding injections of Stadol...given by the Respondent to some patients". This was in violation of Maryland statute H.O. §14-404(a) (22).

3. As a result of this finding, Respondent was placed on probation for a period of two years. As part of this probation, Respondent was expected to cooperate with Med-Chi Peer Review Committee which "shall have a specialist in the area of pain management review any" chronic pain patient's records, complete a course in medical record keeping and not use injectable narcotics or injectable Stadol in treatment "unless the use of such injectable narcotics or injectable Stadol has been approved for use in the treatment of each such patient by a physician who is a specialist in pain management".

- B. The conduct upon which the Maryland Board found Respondent failed to meet appropriate standards would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(32) (McKinney Supp. 1995) [failing to maintain a record for each patient which accurately reflects the evaluation and

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY  
OF IMPROPER PROFESSIONAL PRACTICE  
OR PROFESSIONAL MISCONDUCT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1994) by reason of his having been found guilty of 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, in that Petitioner charges facts in paragraphs A, A1, A2, A3 and/or B.

SECOND SPECIFICATION

HAVING HIS LICENSE TO PRACTICE MEDICINE  
REVOKED, SUSPENDED OR HAVING OTHER  
DISCIPLINARY ACTION TAKEN

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994) by reason of his having had disciplinary action taken by a duly authorized professional disciplinary agency of another state where the conduct resulting in this action would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges facts in paragraphs A, A1, A2, A3 and/or B.

DATED: *April 18*, 1995  
Albany, New York

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