



# STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.  
*Commissioner*

Wendy E. Saunders  
*Chief of Staff*

April 17, 2009

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mary Louise Mortimer, M.D.  
a/k/a Mary Louise Chrostowski, M.D.  
Redacted Address

Robert Bogan, Esq.  
NYS Department of Health  
433 River Street – Suite 303  
Troy, New York 12180

**RE: In the Matter of Mary Louise Mortimer, M.D.  
a/k/a Mary Louise Chrostowski, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 09-70) 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 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), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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,  
Redacted Signature

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:cah

Enclosure

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

IN THE MATTER

OF

MARY LOUISE MORTIMER, M.D..  
a/k/a MARY LOUISE CHROSTOWSKI, M.D.

DETERMINATION

AND

ORDER

BPMC #09-70

COPY

A hearing was held on March 17, 2009, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated January 28, 2009, were served upon the Respondent, **MARY LOUISE MORTIMER, M.D., a/k/a MARY LOUISE CHROSTOWSKI, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Andrew J. Merritt, M.D.**, Chair, **Arsenio G. Agopovich, M.D.** and **Gail S. Homick**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent, **MARY LOUISE MORTIMER, M.D.**, did appear and was duly served. Respondent appeared *pro se*. Evidence was received 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 when 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 State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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, the Respondent is charged with professional misconduct pursuant to Education Law §6530(2) – practicing the profession fraudulently; Education Law §6530(3) – negligence on more than one occasion; Education Law §6530(4) – gross negligence; Education Law §6530(5) – incompetence on more than one occasion; Education Law §6530(6) - gross incompetence; Education Law §6530(25) - delegating professional responsibilities improperly; Education Law §6530(32) – failing to maintain records for each patient and Education Law §6530(40) - failing to provide access by qualified persons to patient information. Specifically, the Respondent agreed to an Agreed Order based on the above charges and this order revoked her license and fined her \$21,000. Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

#### **WITNESSES**

For the Petitioner:

None

For the Respondent:

Dr. Mortimer

## FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to 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. All Hearing Committee findings were unanimous.

1. **MARY LOUISE MORTIMER, M.D.**, aka, **MARY LOUISE CHROSTOWSKI, M.D.**, the Respondent, did appear at the hearing and was duly served and notified of the hearing on February 10, 2009. (Petitioner's Exhibit 2.)
2. The Respondent, was authorized to practice medicine in New York State on April 29, 1994, by the issuance of license number 195501 by the New York State Education Department. (Petitioner's Ex. 4).
3. On or about March 19, 2008, the State of Tennessee, Department of Health, Board of Medical Examiners (hereinafter "Tennessee Board"), by an Agreed Order (hereinafter "Tennessee Order"), inter alia, revoked Respondent's license to practice medicine and required her to pay a \$21,000.00 civil penalty and costs of prosecution, based on several charges, including the following: unprofessional, dishonorable or unethical conduct; violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate Tennessee law; gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence; dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or

not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, or in amounts and/or for durations not medically necessary, advisable, or justified for a diagnosed condition; dispensing, prescribing or otherwise distributing to any person a controlled substance or other drug if such person is addicted to the habit of using controlled substances without making a bona fide effort to cure the habit of such patient; and dispensing, prescribing or otherwise distributing any controlled substance or other drug to any person in violation of any state or federal law. (Petitioner's Ex. 5).

### **VOTE OF THE HEARING COMMITTEE**

#### **FIRST SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(b) 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 under the laws New York State, in that Petitioner charges numerous violations as set forth in Exhibit 5.

VOTE: Sustained (3-0)

#### **SECOND SPECIFICATION**

Respondent violated New York State Education Law §6530(9)(d) by having her license to practice medicine revoked or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York State, in that Petitioner charges the Respondent with signing the consent order whereby her Tennessee license was revoked.

VOTE: Sustained (3-0)

## HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing without counsel. There was no dispute about jurisdiction. There was also no dispute about the basic facts of this case. The Respondent acknowledged on the record that she was disciplined in the State of Tennessee after complaints were brought against her.

The record in this case indicates that Respondent had signed the Consent Order directing that her license be revoked. The record shows that the Respondent failed to keep proper records and dispensed narcotics to over 150 patients unlawfully and improperly. It appears that the Respondent closed her practice without notifying her patients. It also appears that her employees, who had no health related credentials, took over her practice and filled out prescriptions and stamped them with the Respondent's signature. It also appears from the Agreed Order that the Respondent billed for services that were not rendered.

There is no doubt that the charges enumerated in the Agreed Order would, if sustained at a hearing, result in a revocation of the Respondent's license. The Respondent testified that she was not properly represented in the Tennessee proceeding and that the attorney who had represented her is now under sanction by authorities in Tennessee. The Respondent was advised to raise these matters in Tennessee as New York has no jurisdiction to void or alter the Tennessee Decree.

The Respondent did not deny that she signed the Tennessee Agreed Order. This Order sets forth with great specificity grounds to have her license revoked in New York, had they occurred here. Accordingly, grounds sufficient to revoke her New York State license have been established by clear and convincing evidence and, accordingly, the panel finds that her New York State license should be revoked.

As to the penalty, therefore, the Hearing Committee unanimously determined that the people of New York State would be protected by a revocation of the Respondent's license.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The license of the Respondent to practice medicine in New York State is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Marcellus, New York**  
**April 17, 2009**

Redacted Signature

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**Andrew J. Merritt, M.D., Chair**

**Arsenio G. Agopovich, M.D.**  
**Gail S. Homick**

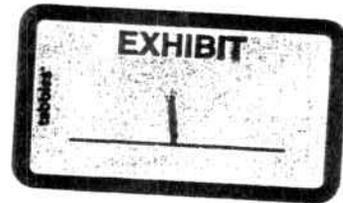
To:

**MARY LOUISE MORTIMER, M.D.**  
Respondent

Redacted Address

Robert Bogan, Esq.  
Attorney for Petitioner  
Associate Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
433 River Street, Suite 303  
Troy, New York 12180-2299

## **APPENDIX 1**



IN THE MATTER

OF

MARY LOUISE MORTIMER, M.D.  
aka MARY LOUISE CHROSTOWSKI, M.D.  
CO-08-04-2443-A

NOTICE OF  
REFERRAL  
PROCEEDING

TO: MARY LOUISE MORTIMER, M.D.  
aka MARY LOUISE CHROSTOWSKI, M.D.

Redacted Address

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 17<sup>th</sup> day of March, 2009, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180.

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 who shall be an attorney admitted to practice in New York state. 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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than ten 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. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence, and a description of physical or other evidence that cannot be photocopied.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here MA

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

*January 28*, 2009

Redacted Signature

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

Inquiries should be addressed to:

Robert Bogan  
Associate Counsel  
New York State Department of Health  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828

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

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IN THE MATTER	STATEMENT
OF	OF
MARY LOUISE MORTIMER, M.D. aka MARY LOUISE CHROSTOWSKI, M.D. CO-08-04-2443-A	CHARGES

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**MARY LOUISE MORTIMER, M.D. aka MARY LOUISE CHROSTOWSKI, M.D.,**  
Respondent, was authorized to practice medicine in New York state on April 29, 1994, by the issuance of license number 195501 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A        On or about March 19, 2008, the State of Tennessee, Department of Health, Board of Medical Examiners (hereinafter "Tennessee Board"), by an Agreed Order (hereinafter "Tennessee Order"), inter alia, revoked Respondent's license on practice medicine and required her to pay a \$21,000.00 civil penalty and costs of prosecution, based on, inter alia: unprofessional, dishonorable or unethical conduct; violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate Tennessee law; gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence; dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, or in amounts and/or for durations not medically necessary, advisable, or justified for a diagnosed condition; dispensing, prescribing or otherwise distributing to any person a controlled substance or other drug if such person is addicted to the habit of using controlled substances without making a bona fide effort to cure the habit of such patient; and dispensing, prescribing or otherwise distributing any controlled substance or other drug to any person in violation of any state or federal law.

B. The conduct resulting in the Tennessee Board disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(4) (gross negligence);
4. New York Education Law §6530(5) (incompetence on more than one occasion);
5. New York Education Law §6530(6) (gross incompetence);
6. New York Education Law §6530(25) (delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them);
7. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient); and/or
8. New York Education Law §6530(40) (failing to provide access by qualified persons to patient information).

### SPECIFICATIONS

#### FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would constitute professional misconduct under the laws New York state, in that Petitioner charges:

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

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having her license to practice medicine revoked or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

DATED: *January 28*, 2009  
Albany, New York

Redacted Signature

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