



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

April 4, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
Paul Robert Maher, Esq.
NYS Department of Health
Hedley Park Place -4th Floor
433 River Street
Troy, New York 12180

Itai Rozovsky
REDACTED ADDRESS

RE: In the Matter of Itai Rozovsky, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 01-83) 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), 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 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

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

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

COPY

IN THE MATTER
OF
ITAI ROZOVSKY, M.D.

DETERMINATION

AND

ORDER

BPMC #01-83

A Notice of Referral Proceeding and Statement of Charges, both dated October 17, 2000, were served upon the Respondent, **ITAI ROZOVSKY, M.D.**

RICHARD ASHLEY, M.D. Chairperson, **KENDRICK SEARS, M.D.** and **MR. IRVING CAPLAN**, 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. **MICHAEL P. McDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on March 22, 2001 at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **PAUL ROBERT MAHER, ESQ.**, and **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent appeared on his own behalf.

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 where a licensee is charged solely with a violation of Education Law Section 6530 (9). In such case, 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9) (c). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this determination and Order as Appendix 1.

WITNESSES

For The Petitioner:

NONE

For The Respondent:

ITAI ROZOVSKY, M.D., the Respondent

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis refer to transcript page number 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. All Hearing Committee findings were unanimous unless otherwise stated.

1. **ITAI ROZOVSKY, M.D.**, the Respondent, was authorized to practice medicine in New York state on October 1, 1982, by the issuance of license number 151695 by the New York State Education Department. (Pet's. Ex. 3)

2. On January 11, 2001, the Illinois Department of Public Aid terminated the Respondent's eligibility to participate in the Medical Assistance Program of the State of Illinois based on:
 - his prescribing of antibiotics or antifungal medications without appropriate documented indications;
 - his prescribing medication without appropriate indications;
 - his conduct which resulted in the provision of medical goods and services which were of grossly inferior quality; placed the recipients at risk of harm; and were in excess of the recipient's needs.
 - his inadequate documentation of patient's medical history and physical examinations.(Pet's. Ex. 4)

3. On September 30, 1999, the United States Department of Health and Human Services, excluded the Respondent from all federal health programs based on the Illinois action (Pet's Ex. 5)

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct resulting in the Illinois Department of Public Aid disciplinary actions against the Respondent would constitute misconduct under the laws of New York State, pursuant to:

- New York Education Law §6530 (3) (negligence on more than one occasion);
- New York Education Law §6530 (5) (incompetence on more than one occasion);
- New York Education Law §6530 (16) (failure to comply with federal, state, or local law, rules, or regulations); and/or
- New York Education Law §6530 (32) (failing to maintain accurate records).

The conduct resulting in the DOH disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to:

- New York Education Law §6530 (9)(c) (violating a state or federal statute or regulation).

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

Respondent violated New York Education Law 6530 (9) (c) by having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct pursuant to New York law

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The evidence in this case indicates that on January 11, 1999, the Illinois Department of Public Aid terminated the Respondent's eligibility to participate in the Medical Assistance Program of the State of Illinois based on :

- his prescribing of antibiotics or antifungal medications without appropriate documented indications;
- his prescribing medication without appropriate indications
- his conduct which resulted in the provision of medical goods and services which were grossly inferior quality; placed the recipients at risk of harm and were in excess of the recipient's needs.
- his inadequate documentation of patient's medical history and physical examinations.

On September 30, 1999, the United States Department of Health and Human Services, excluded the Respondent from all federal health programs based on the Illinois Action.

Based on the evidence in the record, the Hearing Committee determined unanimously (3-0), that the Respondent's license to practice medicine in the State of New York should be **REVOKED**.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby **REVOKED**:
2. This **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Rockville Centre, New York

April 2, 2001

REDACTED SIGNATURE

**RICHARD ASHLEY, M.D.,
CHAIRPERSON**

**KENDERICK SEARS, M.D.
MR. IRVING CAPLAN**

APPENDIX I

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

IN THE MATTER
OF
ITAI ROZOVSKY, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: ITAI ROZOVSKY
REDACTED ADDRESS

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 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 16th day of November, 2000 at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 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. 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.

EXHIBIT
1

If you intend to present sworn testimony, the number of witnesses 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, 5th Floor, 433 River Street, Troy, New York, 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 November 6, 2000.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an 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 brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before November 6, 2000, 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

October 17, 2000

REDACTED SIGNATURE

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

Inquiries should be addressed to:

Robert Bogan
Assistant Counsel
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0820

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

IN THE MATTER
OF
ITAI ROZOVSKY, M.D.

STATEMENT
OF
CHARGES

ITAI ROZOVSKY, M.D., the Respondent, was authorized to practice medicine in New York state on October 1, 1982, by the issuance of license number 151695 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 11, 1999, the Illinois Department of Public Aid (hereinafter "Illinois Department"), terminated Respondent's eligibility to participate in the Medical Assistance Program of the State of Illinois, based on his prescribing of antibiotics or antifungal medications without appropriate documented indications, providing medical goods or services which were of grossly inferior quality, placing the Recipient at risk of harm, were in excess of Recipient's needs, and prescribing medications without appropriate indications.

B. On or about September 30, 1999, the United States, Department of Health & Human Services (hereinafter "DOH"), excluded Respondent from all Federal health care programs, based on the Illinois action described in Paragraph A above.

C. The conduct resulting in the Illinois Department disciplinary action 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(3) (negligence on more than one occasion);
2. New York Education Law §6530(5) (incompetence on more than one occasion);

3. New York Education Law §6530(16) (failure to comply with federal, state, or local law, rules, or regulations); and/or

4. New York Education Law §6530(32) (failing to maintain accurate records).

D. The conduct resulting in the DOH disciplinary action 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(9)(c) (violating a state or federal statute or regulation).

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(c) by having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct pursuant to New York law, in that Petitioner charges:

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

DATED: *Oct. 17*, 2000
Albany, New York

REDACTED SIGNATURE _____

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