



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Lorna McBarnette
Executive Deputy Commissioner

January 31, 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Sandra J. Tyner, M.D.
108 NE Savage Street
Grants Pass, Oregon 97526

Effective Date: 1/31/92

Paul Stein, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

RE: In the Matter of Sandra J. Stawarski, M.D.

Dear Dr. Tyner and Mr. Stein:

Enclosed please find the Determination and Order of the Hearing Committee in the above referenced matter.

As prescribed by the New York State Public Health Law, §230, subdivision 10, paragraph (i), §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.

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 of the Hearing Committee's Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to the New York State Department of Health, Bureau of Adjudication, Corning Tower - Room 2503, Empire State Plaza, Albany, New York 12237-0030, Attention: James F. Horan, Esq., Administrative Law Judge. The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. The stipulated record in this matter shall consist of the official hearing transcript and all documents in evidence. 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.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Very truly yours,

Tyrone T. Butler

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:
Enclosure

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

-----X
IN THE MATTER : DETERMINATION
: :
OF : AND
: :
SANDRA J. STAWARSKI, M.D. : ORDER
a/k/a SANDRA J. FORREST, M.D. : :
a/k/a SANDRA J. FORREST TYNER, M.D. : #BPMC 92-10
a/k/a SANDRA FORREST TYNER, M.D. : :
a/k/a SANDRA J. TYNER, M.D. : :
: :
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A Notice of Hearing and Statement of Charges, both dated November 14, 1991, were served upon the Respondent, Sandra J. Stawarski, M.D. **GEORGE HYAMS, M.D. (Chair), MELVIN H. WORTH, JR., M.D.,** and **DANIEL W. MORRISSEY, O.P.,** 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, ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. A hearing was held on December 11, 1991. The Department of Health appeared by Paul Stein, Esq., Associate Counsel. The Respondent did not appear at the hearing in person, and no attorney appeared on behalf of Respondent. 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 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 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 Section 6530(9)(b) and 6530 (9)(d).

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. Respondent was authorized to practice medicine in New York State on September 14, 1979 by the issuance of license number 139651 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department. (Dept. Exhibit #3).

2. On or about July 12, 1984, the Board of Medical Examiners of the State of Oregon (hereinafter "the Board"), upon finding, inter alia:

That from 1977 to 1984 the licensee has habitually and excessively used Phentermine Hydrochloride, in a course of self-administration and such drug not being prescribed or dispensed for the treatment of any

disease or ailment by any other physician.

That on April 12, 1984, the licensee appeared before the Board of Medical Examiners and admitted to habitual and excessive use of intoxicants (alcohol) and controlled substances in violation of ORS 677.190(7),

revoked Respondent's license to practice medicine in the State of Oregon, and stayed the revocation order provided that Respondent comply with terms and conditions of probation for ten years. The terms of probation included, inter alia, abstention from the use of alcoholic beverages, not using or prescribing any Schedule II, III or IV drugs (with very limited exceptions regarding prescribing), monitoring, and psychiatric treatment. (Dept. Exhibit # 3).

3. On or about October 9, 1986, upon finding that Respondent was an immediate danger to the public, based on documented evidence that she was hospitalized for mental illness following a delirium and intoxication of parnate abuse, and upon Respondent's admission before the Board on October 9, 1986 to having violated Term of Probation number 2 of the July 12, 1984 Terms of Probation, the Board issued an order, pursuant to ORS 677.205(3), suspending Respondent's license to practice medicine in the state of Oregon. (Term of Probation number 2 reads in relevant part that she "shall not use, prescribe, administer or dispense any Schedule II, III or IV drugs or order or dispense any office drugs as defined under Federal Statutes, Oregon State Laws or Administrative Rules."). (Dept. Exhibit # 3).

4. On or about April 9, 1987, the Board issued an Order

Modifying Prior Order, and Terms of Probation. By the terms of this Order, Respondent's license to practice medicine in the state of Oregon was revoked, provided, however, that execution of the revocation order was stayed and Respondent was put on ten (10) years probation under various terms and conditions regarding abstention from the use of alcoholic beverages and prescriptive drugs, monitoring, medical treatment, and psychiatric treatment. This order was issued simultaneously with a Board order termination the order of suspension referred to in paragraph # 3, above. (Dept. Exhibit # 3).

5. At all times relevant to these proceedings, Oregon Revised Statutes (ORS) §677.190(7) provided that a ground for suspending, revoking or refusing to grant a medical license, registration or certification was "Habitual or excessive use of intoxicants, drugs or controlled substances. (Official notice taken).

6. At all times relevant to these, proceedings, ORS §677.205(3) provided that the Board may temporarily suspend a license without a hearing, if the Board finds that evidence in its possession indicates that a continuation in practice of the licensee constitutes "an immediate danger to the public." (Official notice taken).

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 Committee concluded that the Department has met its burden of proof. The preponderance of the evidence demonstrates that Respondent was repeatedly disciplined by the Board of Medical Examiners of the State of Oregon for conduct in violation of ORS §677.190(7). This statute defines the habitual or excessive use of intoxicants, drugs or controlled substances as grounds for action against a medical licensee.

Education Law §6530(8), as added by Ch. 606, laws of 1991, defines professional misconduct as:

Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice.

The record demonstrates that Respondent's medical license was revoked by the Oregon Board in 1984, after admitting to habitual and excessive use of alcohol and controlled substances. This revocation was stayed and Respondent was placed on probation. In October, 1986, The Board summarily suspended Respondent's license following her hospitalization for mental illness following intoxication related to parnate abuse.

The Hearing Committee concluded that Respondent's conduct would clearly constitute a violation of Education Law §6530(8) were it to have occurred in New York State. As a result, the Committee unanimously voted to sustain both the First and Second Specifications of misconduct alleged by the Department.

DETERMINATION AS TO PENALTY

The Hearing Committee unanimously concluded that Respondent's license to practice medicine in New York State should be revoked. Respondent's Oregon medical license is currently revoked, with the revocation stayed, subject to a ten year term of probation. Any penalty which included terms of probation in New York would be unworkable, as the Respondent does not currently live or practice within New York State, and her compliance with the terms of probation could not be monitored by the Office of Professional Medical Conduct. Further, the Oregon Board has indicated that it cannot release the probation reports which it maintains regarding Respondent. In the event that Respondent ever decides that she wishes to regain her New York medical license, she may petition the Board of Regents for reinstatement. At that time, she will have an opportunity to demonstrate that she is no longer an habitual user of alcohol or drugs.

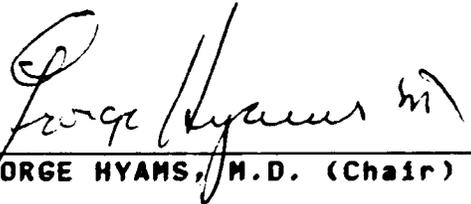
ORDER

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

1. The First and Second Specifications of professional misconduct contained within the Statement of Charges (Dept. Exhibit #1) are **SUSTAINED**, and

2. Respondent's license to practice medicine in the State
of New York is **REVOKED**.

DATED: Albany, New York
, 1992



GEORGE HYAMS, M.D. (Chair)

Melvin H. Worth, Jr., M.D.
Daniel W. Morrissey, O.P.

TO: Sandra J. Tyner, M.D.
108 NE Savage Street
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