



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

OFFICE OF PUBLIC HEALTH
Lloyd F. Novick, M.D., M.P.H.
Director
Diana Jones Ritter
Executive Deputy Director

April 13, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joseph Huberty, Esq.
NYS Department of Health
Bureau of Professional
Medical Conduct
Empire State Plaza
Corning Tower - Room 2438
Albany, New York 12237

William D. Caso, M.D.
1103 Woodland
Elizabethtown, Kentucky 42701

William D. Caso, M.D.
142-17 Cherry Avenue
Flushing, New York 11355

RE: In the Matter of William D. Caso, M.D.

Dear Mr. Huberty and Dr. Caso:

Enclosed please find the Determination and Order (No. 94-51) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

New York State Department of Health
Office of Professional Medical Conduct
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 (p), and §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.

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
Corning Tower -Room 2503
Empire State Plaza
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.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mmn
Enclosure

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

-----X
IN THE MATTER

: DETERMINATION

OF

: AND

WILLIAM D. CASO, M.D.

: ORDER

-----X
No. BPMC 94-51

A Notice of Referral Proceedings and Statement of Charges, both dated September 14, 1993, were served upon the Respondent, William D. Caso, M.D.

Joseph K. Myers, M.D., Chairman, Sr. Mary Theresa Murphy, and Andrew J. Merritt, 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. MICHAEL P. MCDERMOTT, ESQ., Administrative Law Judge, served as the Administrative Officer. A hearing was held on March 16, 1994. The Department of Health appeared by Peter J. Millock, Esq., General Counsel by Joseph Huberty, Esq., Assistant Counsel, of Counsel. The Respondent appeared by Mayard, O'Connor & Smith, 80 State Street, Albany, N.Y. 12207, Thomas G. Daley, Esq. of Counsel.

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 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this **DETERMINATION AND ORDER** as Appendix I.

Copies of the pertinent New York State and Commonwealth of Kentucky Laws are attached hereto and made a part hereof.

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. All Hearing Committee findings were unanimous unless otherwise

specified.

1. William D. Caso, M.D. the Respondent, was authorized to practice medicine in New York State on August 14, 1954, by the issuance of license number 082787 by the New York State Education Department. The Respondent is not currently registered to practice medicine with the New York State Education Department (Pet.'s Ex. A).

2. On October 30, 1989, a hearing was held by the Kentucky State Board of Medical Licensure (hereinafter Kentucky Board), regarding the Respondent's conduct in treating certain patients.

By DECISION, dated May 21, 1990, the Hearing Officer made the following conclusion of Law:

"Respondent's conduct with respect to Patient A, though not intentional violated KRS 311.395 (8), 311.597(1)(d) and 311.597(3) in that he prescribed medications "controlled substances" in such amounts that he knew or had reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed were excessive under accepted and prevailing medical practice standards and further that Respondent had committed a serious act during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross ignorance, gross negligence or malpractice" (Pet's. Ex. B).

3. By ORDER, dated and filed of record on June 27, 1990, the

Kentucky Board adopted the Hearing Officers Findings of Fact and Conclusions of Law of May 21, 1990, and **ORDERED**:

"that the license to practice medicine in the Commonwealth of Kentucky held by William D. Caso, M.D. shall be placed on probation for a period of five (5) years, subject to the following terms and conditions:

1. Dr. Caso shall attend and successfully complete the University of Kentucky's Mini-Residency entitled "The Prescribing and Use of Controlled Substances."

2. Dr. Caso shall not prescribe, dispense, administer or otherwise professionally utilize any Schedule II or IIN controlled substance for a period of three (3) years. However, upon successful completion of the University of Kentucky Mini-Residency and upon the expiration of at least on (1) year of the probationary period, Dr. Caso may petition the Panel for reinstatement of his Schedule II and IIN prescribing of the Panel.

3. Dr. Caso shall pay a fine in the amount of One Thousand Dollars (\$1,000.00). Said fine is payable to the Kentucky Board of Medical Licensure and is due on or before December 31, 1990.

4. Dr. Caso shall not violate any law or regulation (state or federal) relating to the sale, use, prescription, distribution or dispensing of controlled substances.

In the event that Dr. Caso violates any of the above

conditions of probation during the probationary period, his license to practice medicine in the Commonwealth of Kentucky shall be immediately suspended pursuant to KRS 311.592." (Pet's. C).

4. **BY AGREED ORDER**, dated September 7, 1990, the Jefferson Circuit Court, Ordered and Adjudged:

"that provisions of the Order entered by the Respondent on June 27, 1990 be and hereby are stayed and are to have no effect until the final outcome of the action herein. Petitioner is immediately restored all of the rights and privileges that he had to practice medicine in the State of Kentucky before the June 27, 1990 Order"(Resp's Ex. 1).

5. Pursuant to a second separate complaint against the Respondent, the Kentucky Board held Hearings on May 14, 1991, June 24, 1991 and February 21, 1992. In his Findings of Fact and Conclusions of Law, dated, July 30, 1992, the Hearing Officer found that:

"Respondent regularly and frequently prescribed controlled substances excessively and the long-term use of narcotic analgesics for inadequate indications; failed to record and specify a specific diagnosis for such usage; he either ignored or failed to address direct evidence in patient charts of a history or pattern of chemical dependency, and continued use of controlled substances where

there was a lack of clinical response."

The Hearing Officer concluded that sufficient grounds exist for discipline to be taken against the Respondent's license pursuant to KRS 218a.140, 311.595(8), 311.597(1)(a), 311.597(1)(d) and 311.597(4) (Pet's Ex. E).

6. By ORDER, dated October 15, 1992, the Kentucky Board ORDERED that the license to practice medicine in the Commonwealth of Kentucky held by William D. Caso, M.D., shall be placed on probation for a period of five (5) years, subject to the following terms and conditions:

1. Dr. Caso shall not prescribe, dispense, administer or otherwise professionally utilize any controlled substances designated by state of Federal Law as Schedule II, IIN, III, IIIN, IV or V during the five (5) year probationary period;
2. Dr. Caso shall successfully complete the University of Kentucky's mini-residency entitled "The Prescribing and Use of Controlled Substances";
3. Dr. Caso shall make his office medical records available to the Board, or its designated agent(s), upon request, for review and/or copying;
4. Dr. Caso shall not violate any provision of the Kentucky Medical Practice Act (KRS 311.530, et seq.); and
5. Dr. Caso shall pay a fine in the amount of Five Hundred Dollars (500.00), and he shall reimburse the

Board the costs of investigation and hearing, said costs totaling Four Thousand Dollars (4,000.00). Said fine and costs are payable to the Kentucky Board of Medical Licensure and are due within one (1) year of the effective date of this Order of Probation;Restriction.

In the event that Dr. Caso violates any of the aforementioned terms and conditions of probation, the Board or its appropriate Panel may immediately suspend Dr. Caso's Kentucky medical license pursuant to KRS 311,592(1)."

7. The regular and frequent excessive prescribing of controlled substances and the long-term use (prescribing) of narcotic analgesics without adequate indication therefore and/or the continued use of controlled substances in the absence of a clinical response, if committed in New York State, would constitute the practice of the profession with gross negligence on a particular occasion and/or the practice of the profession with negligence on more than one occasions in violation of N.Y. Educ. Law 6530(3) and/or (4) respectively (McKinney Supp 1993) (formerly N.Y. Educ. Law 6509(2)).

8. The regular and frequent excessive prescribing of controlled substances and the long-term use (prescribing) of narcotic analgesics without adequate indication therefore and/or the continued use of controlled substances in the absence of a

clinical response, if committed in New York State, would constitute practicing the profession with incompetence on more than one occasion and/or practicing of the profession with gross incompetence on a particular occasion in violation of N.Y. Educ. Law 6530(5) and/or (6) respectively (McKinneys Supp 1993) (formerly N.Y. Educ. Law 6509(2)).

9. Failure to specify and record a specific diagnosis and treatment plan for each patient, if committed in New York State, would constitute a failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in violation of New York Educ. Law 6530(2) (McKinneys Supp. 1993)(formerly N.Y. Educ. law 6509(9) 8NYCRR 29.2(3)).

DETERMINATION OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS:

(HAVING BEEN FOUND GUILTY OF IMPROPER PRACTICE OR PROFESSIONAL MISCONDUCT BY ANOTHER STATE DISCIPLINARY AGENCY)

Petitioner charges Respondent with 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

pursuant to the provision on N.Y. Educ. Law 6530(9)(b) (McKenney Supp. 1993) (formerly N.Y. Educ. Law 6509(5)(b)).

THE FIRST AND SECOND SPECIFICATIONS ARE SUSTAINED.

THIRD AND FOURTH SPECIFICATIONS

(HAVING DISCIPLINARY ACTION TAKEN AGAINST HIM BY
A DULY AUTHORIZED DISCIPLINARY AGENCY OF ANOTHER STATE)

Petitioner charges Respondent with having disciplinary action taken by a duly authorized disciplinary agency of another state where the conduct resulting in that disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, pursuant to the provisions of N.Y. Educ. Law 6530(9)(d) (McKinney Supp. 1993).

THE THIRD AND FOURTH SPECIFICATIONS ARE SUSTAINED

CONSIDERATIONS

The Kentucky State Board of Medical Licensure has brought two separate actions against the Respondent (Findings of Fact Nos. 2,3,5 and 6).

The ORDER of the Kentucky Board, dated June 27, 1990, issued pursuant to the first action, was STAYED by AN AGREED ORDER of the Jefferson Circuit Court issued on September 7, 1990.

During the course of the instant hearing before the Hearing Committee of the Board for Professional Medical Conduct,

the Respondent's attorney represented that he believed that the Respondent was also appealing the second ORDER of the Kentucky Board, issued on October 15, 1992, but could not document the appeal.

The Respondent is currently licensed in New York State but he is not currently registered. The Hearing Committee is concerned that the Respondent, if he chose to do so, could apply for registration and then commence the practice of medicine in this state while the matters in Kentucky are still under appeal.

The Hearing Committee has SUSTAINED the charges against the Respondent. Considering all of the circumstances and facts of this case, the Hearing Committee has determined that the Respondent's license to practice medicine in the State of New York should be SUSPENDED until such time as the Respondent can make a showing to the satisfaction of the Office of Professional Medical Conduct, that the matters before the Kentucky Board are finalized.

The Respondent should notify the Office of Professional Medical Conduct of the final outcome of the Kentucky Board's actions, and the Office of Professional Medical Conduct may consider its position at that time.

ORDER

IT IS HEREBY ORDERED THAT:

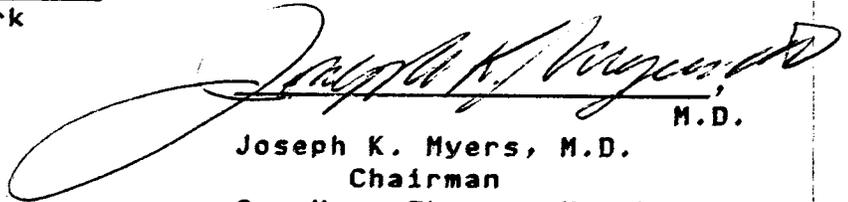
1. The Respondent's license to practice medicine in the State of New York is SUSPENDED until such time, as the Respondent

can make a showing, to the satisfaction of the Office of Professional Medical Conduct, that the matters before the Kentucky Board of Medical Licensure are finalized

2. The Respondent shall notify the Office of Professional Medical Conduct of the final outcome of the Kentucky Board's actions, and the Office of Professional Medical Conduct may consider its position at that time.

3. 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: 4/2/92,
Syracuse, New York



M.D.

Joseph K. Myers, M.D.
Chairman
Sr. Mary Theresa Murphy
Andrew J. Merritt, M.D.