



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

May 8, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

William L. Wood, Esq.
The Harwood Building
Scarsdale, New York 10583

Touradj Farhadi, M.D.
11711 Ohio Avenue, Apt. 201
Los Angeles, California 90025

Touradj Farhadi, M.D.
2630 Pacific Avenue
Long Beach, California 90806

RE: In the Matter of Touradj Farhadi, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 02-134) 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.

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.

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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

IN THE MATTER
OF
TOURADJ FARHADI, M.D.

DETERMINATION

AND

ORDER

BPMC #02-134

COPY

A Notice of Referral Proceeding and Statement of Charges, both dated January 25, 2002, were served upon the Respondent, **TOURADJ FARHADI, M.D.**. **DAVID T. LYON, M.D., M.P.H.**, Chairperson, **JILL M. RABIN, M.D.** and **NANCY J. MACINTYRE, R.N., Ph.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. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on April 18, 2002, 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 **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent appeared in person and by **WILLIAM L. WOOD, ESQ.**

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)(a)(iii), based upon his conviction of a crime in another jurisdiction. 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:

Respondent
Heidi Braumand
Bushra Vahdat

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 unless otherwise specified.

1. **TOURADJ FARHADI, M.D.**, the Respondent, was authorized to practice medicine in New York State on November 29, 1994, by the issuance of license number 197941 by the New York State Education Department (Ex. 4).
2. On June 1, 2001, in the Municipal Court of the Long Beach Judicial District, County of Los Angeles, State of California, Respondent, was found guilty, based on a plea of Nolo Contendere, of a violation of California Welfare and Institutions Code §14107, Presenting False Medi-Cal Claim, a misdemeanor, and was sentenced to six (6) days in jail and thirty six (36) months probation (Ex. 5). Respondent also paid \$49,000 in restitution and penalties, and \$11,000 in investigation and prosecution expenses (Respondent's testimony; and Ex. A, Tigmo and Cole letters).

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the California criminal conviction against Respondent would constitute misconduct under the laws of New York State, pursuant to

New York Education Law §6530(9)(a)(iii), since the underlying acts would also constitute a crime in New York State.

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by having been convicted of a crime in another jurisdiction, where conduct upon which the conviction was based would, if committed in New York State, constitute a crime under the laws of New York State.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that on June 1, 2001, in the Municipal Court of the Long Beach Judicial District, County of Los Angeles, State of California, Respondent, was found guilty, based on a plea of Nolo Contendere, of a violation of California Welfare and Institutions Code §14107, Presenting False Medi-Cal Claim, reduced to a misdemeanor, and was sentenced to six (6) days jail and thirty six (36) months probation. Respondent also paid \$49,000 in restitution and penalties, and \$11,000 in investigation and prosecution expenses

The Hearing Committee determines that this criminal conviction forms the basis for a finding of professional misconduct in New York State because the underlying acts would also constitute crimes in New York State (see, for example, Penal Law §175.30,35). The evidence presented by Respondent (testimonial and documentary) tending to suggest that

his involvement in the criminal conduct was not intentional, but was due more to his negligence, cannot be considered, because "intent to defraud" is an element of the crime of which Respondent was convicted, and his conviction constitutes, per se, evidence of intent to defraud (Ex. 5, Felony Complaint).

Accordingly, the only issue remaining to be decided is the penalty to be imposed for Respondent's professional misconduct.

The Hearing Committee concludes that the appropriate penalty in this case is a censure and reprimand. This conclusion was reached after careful consideration of Respondent's testimony and supporting documentation presented at the hearing. Of special significance to the Hearing Committee was the content of a letter, from the California Deputy Attorney General who prosecuted the criminal case, which was introduced into evidence at the hearing (Ex. A, Tigmo letter):

...After a thorough investigation, the matter was mutually resolved with a "no contest" felony plea and conviction to (sic) Welfare & Institution Section 14107. Immediately after the sentencing, the judge then reduced the charge to a misdemeanor when Dr. Farhadi paid the agreed-upon restitution. That misdemeanor conviction is also subject to expungement upon early termination or successful completion of probation.

I wanted to document and recognize certain mitigating factors one may consider in reaching a disposition of any contemplated administrative action. The billing impropriety occurred when Dr. Farhadi first began his medical practice in the Long Beach area in 1996 and to his credit, he corrected the improper billing practice over a year before this office notified him of its investigation in 1998.

We have no reason to question Dr. Farhadi's dedication as a physician to the predominantly poor immigrant population in the Long Beach area. Throughout my dealings with Dr. Farhadi (mostly through his counsel), he has been cooperative and pleasant. We construe his plea prior to trial and preliminary hearing and swift payment of restitution as an early acceptance of responsibility, as well as saving this office substantial time, effort and resources. Accordingly, unlike some prosecutions we have undertaken, we knew of no reason to require Dr. Farhadi to surrender his medical license as a condition of his plea.

I don't usually write a letter such as this, but do so motivated by the voluntary, corrective measures, as a fact that others may wish to consider when reviewing his continued ability to practice medicine...

This letter, taken in conjunction with evidence that no irregularities have been uncovered by subsequent audits of Respondent's practice (Ex. A, Report of Investigation) since the 1996 acts that led to the criminal action, lends credence to Respondent's testimony that he has corrected the billing problems that led to his conviction, and that he now operates his practice within the confines of the law.

The Hearing Committee was impressed as well with the other evidence as to Respondent's reputation, character, hard work and dedication to the provision of medical care to a generally poor immigrant population (Respondent's testimony, Ex's A and B; testimony of Heidi Braumand and Bushra Vahdat).

The Hearing Committee feels that Respondent has received significant punishment for the acts that led to his conviction, and concludes that there is a low level of likelihood that Respondent will engage in similar acts in the future. The penalty of Censure and Reprimand will, the Hearing Committee believes, serve as an additional punishment and deterrent to future misconduct.

It is noted that the California Medical Board has not yet taken any action against Respondent as a result of his criminal conviction. Should the California Board proceed against Respondent, his license could be subjected to additional sanctions.

ORDER

IT IS HEREBY ORDERED THAT:

1. A **CENSURE AND REPRIMAND** should be issued covering the finding of misconduct set forth herein regarding Respondent **TOURADJ FARHADI, M.D.**

The **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Watertown, New York
MAY 6, 2002



DAVID T. LYON, M.D., M.P.H.
Chairperson

JILL M. RABIN, M.D.
NANCY J. MACINTYRE, R.N., PhD.

APPENDIX I

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



IN THE MATTER
OF
TOURADJ FARHADI, M.D.
CO-01-07-3717-A

NOTICE OF
REFERRAL
PROCEEDING

TO: TOURADJ FARHADI, M.D.
11711 Ohio Avenue, Apt. 201
Los Angeles, CA 90025

TOURADJ FARHADI, M.D.
2630 Pacific Avenue
Long Beach, CA 90806

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 20th day of March 2002, 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 attached Statement of Charges. 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 that 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, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON.

TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before March 11, 2002.

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 March 11, 2002, 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

January 25, 2002



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

IN THE MATTER
OF
TOURADJ FARHADI, M.D.
CO-01-07-3717-A

STATEMENT
OF
CHARGES

TOURADJ FARHADI, M.D., the Respondent, was authorized to practice medicine in New York state on November 29, 1994, by the issuance of license number 197941 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 1, 2001, in the Municipal Court of the Long Beach Judicial District, County of Los Angeles, State of California, Respondent, was found guilty, based on a plea of nolo contendere, of a violation of California Welfare and Institutions Code §14107, Presenting False Medi-Cal Claim, a misdemeanor, and was sentenced to six (6) days jail and thirty six (36) months probation.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within New York state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *January 25*, 2002
Albany, New York


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