



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

February 15, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frederick Zimmer, Esq.
NYS Department of Health
Corning Tower - Room 2429
Empire State Plaza
Albany, New York 12237

Rick Halprin, Esq.
Suite 1400
343 South Dearborn Street
Chicago, Illinois 60604

Ronald C. Margolis, D.O.
Suite 201
9730 3rd Avenue - North East
Seattle, Washington 98115

Thomas N. Dulin, Esq.
Executive Park Tower
Albany, New York 12203

RE: In the Matter of Ronald C. Margolis, D.O.

Dear Mr. Zimmer, Dr. Margolis, Mr. Halprin and Mr. Dulin:

Enclosed please find the Determination and Order (No. BPMC 94-19) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

Office of Professional Medical Conduct
New York State Department of Health
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 than 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), "(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,

Tyrone T. Butler / m.m.m.

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
: :
RONALD C. MARGOLIS, D.O. : ORDER
-----X

No. BMC 94-19

A Notice of Hearing and Statement of Charges, both dated September 24, 1993, were served upon the Respondent, Ronald C. Margolis, D.O. **OLIVE M. JACOB (Chair), ALBERT I. BARTOLETTI, M.D., and JOHN H. HOBIKA, 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. **LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. A hearing was held on October 20, 1993. The Department of Health appeared by Frederick Zimmer, Esq., Assistant Counsel. The Respondent appeared by Rick Halprin, Esq. and Thomas N. Dulin, Esq. 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 Sections 6530(9)(a)(iii), 6530(9)(b) and 6530(9)(d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

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. Ronald C. Margolis, D.O. (hereinafter "Respondent"), was authorized to practice medicine in New York State on July 13, 1971 by the issuance of license number 109159 by the New York State Education Department. Respondent was last registered with the New

York State Education Department to practice medicine in New York State during the period ending on December 31, 1992 with a last registered address of Suite 201, 9730 3rd Avenue North East, Seattle, Washington 98115. (Pet. Ex. #2).

2. On September 13, 1991, the Superior Court of the State of Washington for the County of King, by Judgment and Sentence No. 91-1-01885-1, found Respondent guilty of violating Revised Code of Washington (hereinafter "RCW") 74.09.230(1) [knowingly making or causing to be made any false statement or representation of a material fact in any application for any payment under any medical care program authorized under Chapter 74.09 of the RCW]. (Pet. Ex. #3).

3. The conduct underlying this finding included a guilty plea by Respondent to the fact that during the period of May 6, 1987 through December 31, 1989, Respondent "knowingly made or caused to be made false statements of material fact in an application for payment under a medical care program authorized by RCW 74.09 for services allegedly medically necessary and allegedly rendered to Medicaid recipients." The Court sentenced Respondent to 45 days of confinement and ordered him to make restitution in the amount of \$111,221.00, for which amount Respondent was held jointly and severally liable along with Gynecological Associates, Inc., P.S., a co-defendant for which Respondent served as a high managerial agent and/or officer. (Pet. Ex. #3).

4. The Board of Osteopathic Medicine and Surgery of the Department of Health of the State of Washington (hereinafter "the Washington Board"), by Findings of Fact, Conclusions of Law and Order, dated August 7, 1992, found Respondent guilty of violating RCW 18.130.180(1) [commission of any act involving moral turpitude, dishonest or corruption relating to the practice of the profession], RCW 18.130.180(13) [misrepresentation or fraud in any aspect of the conduct of the profession] and RCW 18.130.180(17) [conviction of a felony relating to the practice of the profession]. (Pet. Ex. #4)

5. The conduct underlying the Board's findings included, *inter alia*, Respondent's guilty plea before the Washington Superior Court, his admission to knowingly making "false... representations" of material fact when applying for payment to a medical care program and his conviction by the Court of violating RCW 74.09.230(1) [a Class C felony in Washington]. In support of its findings, the Washington Board stated that Respondent admitted to fraudulently or intentionally engaging in activities constituting theft and Medicaid fraud. The Washington Board suspended Respondent's license to practice osteopathic medicine and surgery for a minimum of three years and stayed the suspension, subject to Respondent's compliance with various terms of probation. (Pet. Ex. #4).

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 Hearing Committee concluded that the Department has met its burden of proof. The preponderance of the evidence clearly demonstrates that Respondent was convicted, upon a plea of guilty, of defrauding the Washington State Medicaid program in violation of RCW 74.09.230(1). This constitutes a Class C felony under the laws of the State of Washington. At the instant hearing, Respondent claimed that he was not really guilty, and that he only agreed to a plea bargain because he was afraid that he would get a stiff jail sentence if convicted after a trial. The Hearing Committee considers this argument to be totally without merit.

The evidence clearly demonstrates that Respondent entered a plea of guilty in the Washington Superior Court on September 13, 1991. Moreover, Respondent freely and voluntarily admitted that "Between May 6, 1987 and December 31, 1989 in King County, I knowingly made or caused to be made false statements of material fact in an application for payment under a medical care program authorized by RCW 74.09 for services allegedly medically necessary and allegedly rendered to Medicaid recipients." (See, Pet. Ex. #3, pp. 8, 11).

Plea bargains are routinely employed in criminal matters throughout this country. In virtually all such cases, the defendant acknowledges their guilt in exchange for a lighter sentence rather than accept the risk of receiving a harsher penalty following a lengthy and expensive trial. It is disingenuous, at best, for Respondent to claim at this stage of the proceedings that he is truly innocent. Therefore, the Hearing Committee rejected this argument. The Committee further concluded that Respondent's conduct would constitute a crime in violation of Penal Law Section 175.30, if committed in New York State. As a result, the Hearing Committee voted to sustain the First Specification.

It is undisputed that the Washington Board found Respondent guilty of unprofessional conduct, based upon his criminal conviction, and that Respondent's medical license was suspended, with probation. The Hearing Committee unanimously concluded that Respondent's conduct, if committed in New York State, would constitute professional misconduct pursuant to Education Law Sections 6530(2) [practicing the profession fraudulently], 6530(16) [willful failure to comply with substantial provisions of federal, state or local laws, rules or regulations governing the practice of medicine], and 6530(20) [conduct in the practice of medicine which evidences moral unfitness to practice medicine].

Based upon the foregoing, the Hearing Committee unanimously voted to sustain the Second and Third Specifications of professional misconduct.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be suspended for a period of five (5) years from the effective date of this Determination and Order. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

Respondent was convicted of intentionally defrauding the Washington Medicaid program. His crimes involved substantial sums of money. His actions, motivated by greed, constitute a serious breach of the public trust which is accorded to members of the medical profession, and warrant a significant sanction. The Hearing Committee unanimously determined that a five-year suspension of Respondent's medical license was the appropriate sanction.

The Committee takes note of the fact that the Washington Board did not require revocation of Respondent's Washington license and placed him on probation, with a stayed suspension. Given the fact that Respondent does not practice in New York, it would not be feasible to monitor his compliance with terms of probation, were they to be imposed in this matter. The Committee further

determined that a monetary sanction, would not be appropriate insofar as Respondent has already been required to make restitution by the Washington Superior Court. Under the totality of the circumstances, the Hearing Committee determined that a five year suspension strikes the appropriate balance between punishment of Respondent and protection of the public.

ORDER

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

1. The First through Third Specifications of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit #1) are **SUSTAINED**;
2. Respondent's license to practice medicine in New York State be and hereby is **SUSPENDED** for a period of **FIVE (5) YEARS** from the effective date of this Determination and Order.

DATED: Albany, New York
February 10, 1994

Olive M. Jacob

OLIVE M. JACOB (Chair)

ALBERT L. BARTOLETTI, M.D.
JOHN H. HOBIKA, M.D.

TO: Frederick Zimmer, Esq.
New York State Department of Health
Corning Tower - Room 2429
Empire State Plaza
Albany, New York 12237

Ronald C. Margolis, D.O.
Suite 201
9730 3rd Avenue - North East
Seattle, Washington 98115

Rick Halprin, Esq.
Suite 1400
343 South Dearborn Street
Chicago, Illinois 60604

Thomas N. Dulin, Esq.
Executive Park Tower
Albany, New York 12203

APPENDIX I

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

-----X
: IN THE MATTER :
: OF : NOTICE
: RONALD C. MARGOLIS, D.O. : OF
: : HEARING
-----X

TO: RONALD C. MARGOLIS, D.O.
Suite 201
9730 3rd Avenue - North East
Seattle, Washington, 98115



PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 20th day of October, 1993 at 1:15 P.M. in the afternoon of that day at NYS Department of Health, Corning Tower, Room 2509, Empire State Plaza, Albany, New York 12237 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You

shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Administrative Law Judge's Office, Empire State Plaza, Tower Building, 25th Floor, Albany, New York 12237, (518-473-1385), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993), you may file an answer to the Statement of Charges not less than ten days prior to the date of the hearing. If you wish to raise an affirmative defense, however, N.Y. Admin. Code tit. 10, Section 51.5(c) requires that an answer be filed, but allows the filing of such an answer until three days prior to the date of the hearing. Any answer shall

be forwarded to the attorney for the Department of Health whose name appears 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.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A RECOMMENDATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO THE OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW Section 230-a (McKinney Supp. 1993). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

September 24, 1993

Peter D. Van Buren

PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to: Frederick Zimmer
Assistant Counsel
NYS Department of Health
Bureau of Professional
Medical Conduct
Corning Tower, Room 2429
Empire State Plaza
Albany, New York 12237

Telephone No.: (518) 474-8266

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

-----X
IN THE MATTER : STATEMENT
OF : OF
RONALD C. MARGOLIS, D.O. : CHARGES
-----X

RONALD C. MARGOLIS, D.O., the Respondent, was authorized to practice medicine in New York State on July 13, 1971 by the issuance of license number 109159 by the New York State Education Department. The Respondent was last registered with the New York State Education Department to practice medicine in New York State during the period ending on December 31, 1992 with a last registered address of Suite 201, 9730 3rd Avenue North East, Seattle Washington, 98115.

FACTUAL ALLEGATIONS

A. The Superior Court of the State of Washington for the County of King, on September 13, 1991, by Judgement and Sentence No. 91-1-01885-1, found Respondent guilty of violating Revised Code of Washington (hereinafter "RCW") 74.09.230 (1) [knowingly making or causing to be made any false statement or representation of a material fact in any application for any

payment under any medical care program authorized under Chapter 74.09 of the Revised Code of Washington].

1. The conduct underlying this finding included a guilty plea by Respondent in the Washington Superior Court, to his having violated RCW 74.09.230(1) during the period of May 6, 1987 through December 31, 1989 by "having knowingly made or caused to be made false statements of material fact in an application for payment under a medical care program authorized by RCW 74.09 for services allegedly medically necessary and allegedly rendered to Medicaid recipients.". The Washington Superior Court sentenced Respondent to 45 days of confinement and ordered Respondent to make restitution in the amount of \$111,221.00, for which amount Respondent was held jointly and severally liable along with Gynecological Associates, Inc. P.S., a co-defendant for which Respondent served as a high managerial agent and/or officer.

2. The act constituting a crime for which Respondent was convicted by the Washington Superior Court, would if committed within the State of New York, have constituted a crime under Section 175.30 of the New York State Penal Law.

B. The Board of Osteopathic Medicine and Surgery of the Department of Health of the State of Washington (hereinafter the "Board"), by Findings of Fact, Conclusions of Law and Order dated August 7, 1992, found Respondent guilty of violating RCW 18.130.180(1) [commission of any act involving moral turpitude,

dishonesty or corruption relating to the practice of the profession], RCW 18.130.180(13) [misrepresentation or fraud in any aspect of the conduct of the profession] and RCW 18.130.180(17) [conviction of a felony relating to the practice of the profession].

1. The conduct underlying the Board's findings included, among other things, Respondent's guilty plea before the Washington Superior Court, his admission to "knowingly" making "false ... representations" of material fact in applying for payment to a medical care program and his conviction by the Court of filing a "medical care false statement" in violation of RCW 74.09.230(1) (a Class C felony in Washington). In support of its findings, the Board stated that Respondent admitted to fraudulently or intentionally engaging in activities constituting theft and Medicaid fraud. The Washington Board suspended Respondent's license to practice osteopathic medicine and surgery for a minimum of three years and stayed the suspension subject to Respondent's compliance with various terms of probation.

2. The conduct upon which the Washington Board found Respondent guilty would if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(2) (McKinney Supp. 1992) [practicing the profession fraudulently] and/or N.Y. Educ. Law, §6530(16) (McKinney Supp. 1992) [willful failure to comply with substantial provisions of

federal, state or local laws, rules or regulations governing the practice of medicine] and/or N.Y. Educ. Law §6530(20) (McKinney Supp. 1992) [conduct in the practice of medicine which evidences moral unfitness to practice medicine].

FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of his having been convicted of committing an act constituting a crime under the law of another jurisdiction which if committed within New York State, would have constituted a crime under New York State law, in violation of N.Y. Educ. Law §6530(9)(a)(iii) (McKinney Supp. 1993) in that the Petitioner charges:

1. The facts in Paragraphs A and A.1 and A.2.

SECOND SPECIFICATON

Respondent is charged with professional misconduct by reason of his having been found guilty of professional misconduct by the 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 New York State law, in violation of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1993), in that the Petitioner charges;

2. The facts in Paragraphs B and B.1 and B.2.

THIRD SPECIFICATION

Respondent is charged with having committed professional misconduct by reason of his having had disciplinary action taken against his license to practice medicine by the duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action involving his license, would if committed in New York State constitute professional misconduct under New York State law, in violation of N.Y. Educ. Law §6530 (9)(d) (McKinney Supp. 1993) in that the Petitioner charges;

3. The facts in Paragraphs B and B.1 and B.2.

DATED: Albany, New York
September 24, 1993

Peter D. Van Buren

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