



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

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

C. Maynard Guest, M.D.
Executive Secretary

February 23, 1994

Mr. Robert Bentley
Director
Division of Professional Licensing Services
New York State Education Department
Empire State Plaza-Cultural Education Center
Albany, New York 12230

RE: License No. 097493
Effective Date: 1/22/94

Dear Mr. Bentley:

Enclosed please find Order #94-04 of the New York State Board for Professional Medical Conduct concerning Dr. Dema Gouiran.

Neither the Department of Health nor the Respondent has requested an administrative review in this matter. The failure to request a review exhausts the administrative remedies in this matter.

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure



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

January 14, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marcia E. Kaplan, Esq.
Associate Counsel
NYS Department of Health
Bureau of Professional
Medical Conduct
5 Penn Plaza
New York, N.Y. 10001

Dema Gouiran, M.D.
392 Forest Ave.
Staten Island, N.Y. 10301

Dema Gouiran, M.D.
29 City Blvd.
Staten Island, N.Y. 10301

RE: In the Matter of Dema Gouiran, M.D.

Dear Ms. Kaplan and Dr. Gouiran :

Enclosed please find the Determination and Order (No. 9404) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,

Tyrone T. Butler / TTB

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 ;
OF ;
DEMA GOUIRAN, M.D. ;
-----X

DETERMINATION
AND
ORDER
OF THE
HEARING
COMMITTEE
ORDER NO.
BPMC-94- 04

A Notice of Hearing and Statement of Charges dated September 1, 1993 were served upon **DEMA GOUIRAN, M.D.** (hereinafter referred to as "Respondent"). The undersigned Hearing Committee consisting of **ROBIN N. BUSKEY, CHAIRPERSON, LINDA D. LEWIS, M.D. AND CALVIN J. SIMONS, M.D.** was duly designated and appointed by the State Board for Professional Medical Conduct. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as Administrative Officer.

A hearing was conducted on December 8, 1993 pursuant to Section 230 (10)(e) of the Public Health Law and sections 301-307 and 401 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of section 6530 of the New York Education Law by Respondent. The hearing was held at the Offices of the New York State Department of Health, 5 Penn Plaza, New York, New York.

The Department of Health appeared by Marcia Kaplan, Esq., of counsel to Peter J. Millock, Esq., General Counsel. Respondent neither appeared in person nor by counsel. Evidence was received and a transcript of this proceeding was made. The Committee has deliberated and hereby renders its decision.

STATEMENT OF CASE

The proceeding was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of New York 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 the expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon a licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to New York Education Law Section 6530(9)(a)(i) based upon the fact that she has been convicted of committing an act constituting a crime under New York State law. The charges are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges which is attached to this Determination and Order (Appendix I).

SIGNIFICANT LEGAL RULINGS

The Administrative Law Judge found that the State had made service upon Respondent pursuant to statute and that therefore, jurisdiction of Respondent had been established.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. These findings of fact are based upon evidence found persuasive by the Hearing Committee. 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 20, 1966 by the issuance of license number 097493 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. Respondent was last registered with the State Education Department for the period ending December 31, 1989. The address of record listed by Respondent was 392 Forest Avenue, Staten Island, New York, 10301.

2. On or about November 18, 1993, Respondent was convicted after a trial by jury in the Supreme Court of the State of New York, County of Richmond, of two felonies.

3. The first felony was a violation of the General Business Law Section 352-e-1. The second felony was that of Perjury in the second degree, a violation of Section 210.10 of the Penal Law.

4. The facts upon which the conviction of a violation of the General Business law are based are that between April 2, 1987 and February 4, 1988, in the borough of Staten Island, Respondent engaged in the public offering and sale in and from the State of New York of securities consisting of participation interests and

investments in real estate and mortgages, including evidences of interest and indebtedness, when such securities consisted primarily of participation interests and investments in one or more real estate ventures, without having previously filed with the New York State Department of Law a written statement known as an "offering statement" or "prospectus" concerning the contemplated offering.

5. The facts upon which the conviction of Perjury are based are these: On or about August 15, 1988, in the borough of Staten Island, Respondent swore falsely and made false statements in an affidavit, a subscribed written instrument for which an oath is required by law, regarding the approval of a loan to Procom Disaster Maintenance, Inc., with the intent to mislead a Justice of the Supreme Court, New York County, a public servant, in the performance of his official function, and such false statement was material to the Court's determination of the action.

6. On or about March 30, 1992, Respondent was sentenced to a term of imprisonment for one year for Violation of the General Business Law and a term of imprisonment for a minimum of one year and a maximum of three years for Perjury. Respondent was allowed to post bail in the amount of \$100,000 pending the outcome of the appeal.

7. On May 10, 1993, Respondent failed to appear for the imposition of sentence, and Justice Charles A. Kuffner, Jr. of the Supreme Court, Richmond County, ordered the previously posted bail forfeited and issued a bench warrant.

CONCLUSIONS

There can be no debate that Respondent has committed a serious crime under New York State Law. The State has satisfied its burden of proof. At this time, Respondent is a fugitive from justice. This exacerbates the seriousness of the conviction. Under the circumstances, there can be no other penalty than revocation.

ORDER

Based upon the foregoing it is hereby ordered that:

1. The specifications of professional misconduct contained in the Statement of Charges in this matter be

SUSTAINED; and

2. The license of Respondent to practice medicine in this state be **REVOKED**.

DATED: New York, New York

Jan 11, 1994


ROBIN N. BUSKEY
Chairperson

LINDA D. EVANS, M.D.
CALVIN J. SIMONS, M.D.

TO: Marcia E. Kaplan, Esq.
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza
New York, N.Y.

Dema Gouiran, M.D.
29 City Blvd.
Staten Island, N.Y. 10301

Dema Gourian, M.D.
392 Forest Ave.
Staten Island, New York, 10301.

Dept Ex. 1

RS 12/8/93

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

-----X	:	
	:	NOTICE OF
IN THE MATTER	:	
	:	REFERRAL
OF	:	
	:	PROCEEDING
DEMA GOUIRAN, M.D.	:	
-----X	:	

TO: DEMA GOUIRAN, M.D.
392 Forest Avenue
Staten Island, N.Y. 10301

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). 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 October, 1993 at 10:00 o'clock in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

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.

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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: NANCY MASSARONI, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before October 11, 1993 .

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before October 11, 1993 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 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: New York, New York
September 1, 1993



Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Marcia E. Kaplan
Associate Counsel
212 613-2615

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

-----X

IN THE MATTER : STATEMENT
OF : OF
DEMA GOUIRAN, M.D. : CHARGES

-----X

DEMA GOUIRAN, M.D., the Respondent, was authorized to practice medicine in New York State on September 20, 1966 by the issuance of license number 097493 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. She was last registered for the period ending December 31, 1989 from 392 Forest Avenue, Staten Island, N.Y. 10301.

FIRST SPECIFICATION

HAVING BEEN CONVICTED OF
AN ACT CONSTITUTING A CRIME
UNDER NEW YORK STATE LAW

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(a)(i) (McKinney Supp.

1993) in that she has been convicted of committing an act constituting a crime under New York State law, specifically:

On or about November 18, 1993, the Respondent was convicted after a trial by jury in the Supreme Court of the State of New York, County of Richmond, of the following:

a Violation of the General Business Law, a felony, in violation of Section 352-e-1 of the Penal Law, in that on or about and between April 2, 1987 and February 4, 1988, in the borough of Staten Island, Respondent engaged in the public offering and sale in and from the State of New York of securities consisting of participation interests and investments in real estate and mortgages, including evidences of interest and indebtedness, when such securities consisted primarily of participation interests and investments in one or more real estate ventures, without having previously filed with the New York State Department of Law a written statement known as an "offering statement" or "prospectus" concerning the contemplated offering; and

Perjury in the Second Degree, a felony, in violation of Section 210.10 of the Penal Law, in that on or about August 15, 1988, in the borough of Staten Island, Respondent swore falsely and made false statements in an affidavit, a subscribed written instrument for which an oath is required by law, regarding the approval of a loan to Procom Disaster Maintenance, Inc., with the intent to mislead a Justice of the Supreme Court, New York County, a public servant, in the performance of his official function, and such false statement was material to the Court's determination of the action.

On or about March 30, 1992, the Respondent was sentenced to a term of imprisonment for one year for Violation of the General Business Law and a term of imprisonment for a minimum of one year and a maximum of three years for Perjury. She was allowed to post bail in the amount of

\$100,000 pending the outcome of the appeal. On May 10, 1993, Respondent failed to appear for the imposition of sentence, and Justice Charles A. Kuffner, Jr. of the Supreme Court, Richmond County, ordered the previously posted bail forfeited and issued a bench warrant.

DATED: NEW YORK, NEW YORK

September 1, 1993



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct