



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

January 7, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Stanley Joel Schwartz, P.A.
3811 Garvin Avenue
Richmond, California 94205

Stanley Joel Schwartz, P.A.
5827 Bayview Avenue
Richmond, California 94804

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

RE: In the Matter of Stanley Joel Schwartz, P.A.

Dear Mr. Schwartz and Mr. Smith:

Enclosed please find the Determination and Order (No. BPMC-96-303) 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.

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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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 (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.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** 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
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 that reads "Tyrone T. Butler". The signature is written in a cursive style with a large, prominent initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

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

COPY

**IN THE MATTER
OF
STANLEY JOEL SCHWARTZ, P.A.**

**DETERMINATION
AND
ORDER**

B.P.M.C.-96-303

A Notice of Referral Proceedings and Statement of Charges, both dated December 17, 1996 were served upon the Respondent, Stanley Joel Schwartz, P.A. **GERALD S. WEINBERGER, M.D.**, Chairman, **ARTHUR J. WISE, M.D.** and **MS. PRICILLA R. LESLIE**, 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 December 17, 1996. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **DAVID SMITH, ESQ.**, of Counsel. The Respondent failed to appear.

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 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 license.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530 (9) (b) and (d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis 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. Stanley Joel Schwartz, P.A. the Respondent, was authorized to practice as a Physician Assistant in New York State on July 16, 1994, by the issuance of license number ⁰⁰²⁹⁴⁰ **002490** by the New York State Education Department (Pet's Ex. 1 and 2).
2. On or about the 17th of September, 1986, the State of New Hampshire, Board of Pharmacy ("Pharmacy Board"), after a hearing at which the Respondent failed to appear, suspended for one (1) year the license of the Respondent to practice pharmacy in New Hampshire with automatic revocation to take place at the end of the year unless the Respondent could show good cause why it should not happen. The Respondent's license was revoked.
 - a. The Respondent was found guilty of the theft for personal use of the cocaine and other controlled substances from a hospital pharmacy and found to have violated the following New Hampshire statutes governing physicians:
 - RSA 318:20 II (c): Unprofessional conduct;
 - (d): Willful acts performed in a manner inconsistent with the safety of persons using the services of licensee; and
 - (e): Addiction to alcohol or other habit-forming drugs. (Pet's Ex. 3)

3. On or about March 1, 1994, in Sacramento Superior Court, County of Sacramento, State of California, the Respondent pleaded Nolo Contendere (No Contest) to a violation of §11173(a) of the California Health and Safety Code (forging a prescription on a stolen prescription blank in order to obtain drugs). He was sentenced to 60 days in jail, 5 years probation and ordered into a drug rehabilitation program (Pet's. Ex. 4 and 5).
4. On or about June 11, 1995, after a Notice of Hearing and Accusation were sent to the Respondent, who failed to appear, the Physician Assistant Examining Committee ("Committee") of the Medical Board of California found the Respondent guilty of violating §2234(a) of the California Business and Professions Code ("BPC") because of his conviction under §11173(a) of the California Health and Safety Code in obtaining controlled substances by fraud (forging a physician's signature on a stolen prescription pad) and BPC §475(b) by failing to disclose the New Hampshire revocation of his license on his Physician Assistant license application in the State of California. The Committee revoked the Respondent 's California license effective July 11, 1995 (Pet's. Ex. 5).

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

The Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1996) by having been found guilty of 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 under the laws of New York State [namely N.Y. Educ. Law §6530(1) (obtaining the license fraudulently) (2), (practicing the profession fraudulently), (8)

(being dependent upon narcotics, barbiturates or other drugs), and (20), (moral unfitness to practice)]

SUSTAINED (3-0)

THIRD SPECIFICATION

REVOCATION BY ANOTHER DISCIPLINARY AGENCY

The Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1996) by having his license to practice medicine revoked after a disciplinary action was instituted by a duly authorized professional agency of another state where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct [namely N.Y. Educ. Law §6530(1)(obtaining the license fraudulently), (2) (practicing the profession fraudulently), (8) (being dependent upon narcotics, barbiturates or other drugs), and (20) (moral unfitness to practice)]

SUSTAINED (3-0)

FOURTH SPECIFICATION

CRIMINAL CONVICTION

The Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ Law §6530(9)(a)(iii)(McKinney Supp. 1996) by having been convicted of committing a crime under the law of another jurisdiction, [California Health & Safety Code §11173(a) a felony], which, if committed in New York State, would have constituted a crime under New York State Law [namely N.Y. Penal Law §170.05 (forgery in the 3rd degree) a Class A Misdemeanor].

SUSTAINED (3-0)

DETERMINATION OF THE HEARING COMMITTEE

The Respondent did not appear, either in person or by representative, at the hearing, nor did he submit any documentation to be considered by the Hearing Committee.

There is no evidence in the record that the Respondent has complied with the Order of the Sacramento California Superior Court that he participate in a drug rehabilitation program.

There are no mitigating circumstances to be considered in this case.

The Respondent's license to practice as a Physician Assistant in the State of New York should be **REVOKED**.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice as a Physician Assistant in the State of New York is hereby **REVOKED**.
2. 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: Ardsley, New York
12/28, 1996


GERALD S. WEINBERGER, M.D., Chairman

**ARTHUR J. WISE, M.D.
MS. PRICILLA R. LESLIE**

TO: David Smith, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001

Stanley Joel Schwartz, P.A.
3811 Garvin Avenue
Richmond, California 94205

Stanley Joel Schwartz, P.A.
5827 Bayview Avenue
Richmond, California 94804

(12)

APPENDIX I

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

IN THE MATTER
OF
STANLEY JOEL SCHWARTZ, P.A.

NOTICE
OF
HEARING

TO: STANLEY JOEL SCHWARTZ, P.A.
3811 Garvin Avenue
Richmond, CA 94205

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1996) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1996). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on December 17, 1996, at 10:00 a.m., at the Offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York, 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.

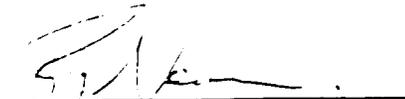
Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such 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. Pursuant to §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
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR

SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a (McKinney Supp. 1996). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
1996



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be directed to: DAVID W. SMITH
Associate Counsel
Bureau of Professional
Medical Conduct
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2615

IN THE MATTER
OF
STANLEY JOEL SCHWARTZ, P.A.

STATEMENT
OF
CHARGES

STANLEY JOEL SCHWARTZ, P.A., the Respondent, was authorized to practice as a physician assistant in New York State on or about July 16, 1984, by the issuance of license number ~~002940~~ ⁰⁰²⁴⁹⁰ by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about the 17th of September, 1986, the State of New Hampshire, Board of Pharmacy ("Pharmacy Board"), after hearing at which Respondent failed to appear, suspended for one (1) year the license of Respondent to practice pharmacy in New Hampshire with automatic revocation to take place at the end of the year unless Respondent could show good cause why it should not happen. Respondent's license was revoked.
1. Respondent was found guilty of the theft for personal use of cocaine and other controlled substances from a hospital pharmacy and found to have violated the following New Hampshire statutes governing physicians:
 - i. RSA 318:29 II (c): Unprofessional conduct;
(d): Willful acts performed in a manner inconsistent with the safety of persons using the services of licensee; and

(e): Addiction to alcohol or other habit-forming drugs.

- B. On or about March 1, 1994, in Sacramento Superior Court, County of Sacramento, State of California, Respondent pleaded Nolo Contendere (No Contest) to a violation of §11173(a) of the California Health and Safety Code (forging a prescription on a stolen prescription blank in order to obtain drugs). He was sentenced to 60 days in jail, 5 years probation and ordered into a drug rehabilitation program.
- C. On or about June 11, 1995, after Notice of Hearing and Accusation sent to Respondent, who failed to appear, the Physician Assistant Examining Committee ("Committee") of the Medical Board of California found Respondent guilty of violating §2234(a) of the California Business and Professions Code ("BPC") because of his conviction under §11173(a) of the California Health and Safety Code in obtaining controlled substances by fraud (forging a physician's signature on a stolen prescription pad) and BPC §475(b) by failing to disclose the New Hampshire revocation of his license on his physician assistant license application in the State of California.
1. The Committee revoked the license of Respondent in California effective July 11, 1995.

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1996) by having been found guilty of 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 under the laws of New York State [namely N.Y. Educ. Law §6530(1)(obtaining the license fraudulently) (2), (practicing the profession fraudulently), (8) (being dependent upon narcotics, barbiturates or other drugs), and (20) (moral unfitness to practice)] as alleged in the facts of the following:

1. Paragraphs A and A1.
2. Paragraphs C and C1.

THIRD SPECIFICATION

REVOCATION BY ANOTHER DISCIPLINARY AGENCY

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1996) by having his license to practice medicine revoked after a disciplinary action was instituted by a duly authorized professional agency of another state where the conduct resulting in

the revocation would, if committed in New York State constitute professional misconduct [namely N.Y. Educ. Law §6530(1)(obtaining the license fraudulently), (2) (practicing the profession fraudulently), (8) (being dependent upon narcotics, barbiturates or other drugs), and (20) (moral unfitness to practice)] as alleged in the facts of the following:

3. Paragraphs C and C1.

FOURTH SPECIFICATION
CRIMINAL CONVICTION

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(a)(iii)(McKinney Supp. 1996) by having been convicted of committing a crime under the law of another jurisdiction, [California Health & Safety Code §11173(a) a felony], which, if committed in New York State would have constituted a crime under New York State Law [namely N.Y. Penal Law § 170.05 (forgery in the 3rd degree) a Class A Misdemeanor] as alleged in the facts of the following:

4. Paragraph B.

DATED:

cc taken
September 2, 1996
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct