



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Dennis P. Whalen
Executive Deputy Commissioner

April 23, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
Bureau of Professional Medical Conduct
Hedley Park Place
433 River Street – 4th floor
Troy, NY 12180

Edward H. Fox, Esq.
Harris Beach & Wilcox, LLP
130 East Main Street
Rochester, NY 14604

Melvin K. Pisetzner, M.D.
5675 Smith Road
Pittsford, NY 14534

RE: In the Matter of Melvin K. Pisetzner, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.99-83) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mla
Enclosure

COPY

IN THE MATTER
-OF-
MELVIN K. PISETZNER, M.D.

DECISION
AND
ORDER
OF THE
HEARING
COMMITTEE

BPMC ORDER
NO. 99 -83

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated October 28, 1998 which were served upon **MELVIN K. PISETZNER, M.D.**, (hereinafter referred to as "Respondent"). **JOHN W. CHOATE, M.D.**, Chairperson, **HOWARD SOHNEN, M.D.**, and **D. MARISA FINN**, 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. **JEFFREY W. KIMMER, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on March 17, 1999 at Hedley Park Place, Troy, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner" or "the Board") appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, Assistant Counsel, Bureau of Professional Medical Conduct. Respondent did not appear in person. Respondent did appear by **EDWARD H. FOX, ESQ.**, of counsel to Harris, Beach & Wilcox, Rochester, New York. Evidence was received. A transcript of these proceedings was made.

After consideration of the entire record, the Hearing Committee issues this Decision and Order.

STATEMENT OF CASE

This case 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 Section 6530 (9) of the Education Law. In such cases, a licensee is charged with misconduct based upon prior professional disciplinary action or criminal conviction. The scope of this expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed by this state upon the licensee based solely upon the record of the previous conviction or discipline.

In the instant case, Respondent is charged with professional misconduct pursuant to the New York State Education Law, Section 6530 (9)(a) and (i) (having been found guilty of having been convicted of committing an act constituting a crime under New York state law). The allegations in this proceeding and the underlying events are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

Respondent testified in his own behalf and called three witnesses:

1. Tony Costello
2. Steve Dvorin
3. Tom Letourneay

FINDINGS OF FACT

The Committee adopts the factual statements set forth on pages one and two of the Statement of Charges (Appendix One) as its findings of fact and incorporates them herein.

CONCLUSIONS
WITH REGARD TO
FACTUAL ALLEGATIONS
SPECIFICATIONS
AND
PENALTY

Petitioner herein has proven by a preponderance of the evidence that Respondent was found guilty of one count of repeated failure to file personal income and earnings taxes, a crime under the Tax Law of the State of New York. Petitioner has also proven that Respondent was sentenced to time served, five years probation, restitution, and a surcharge of \$155.

Petitioner has not sought revocation. Given the nature of the underlying crime and the sentence imposed by the court, it is the conclusion of the Committee that Respondent does not represent a serious threat to the public. However, the Committee does not wish to be misunderstood as to in any way accept the conduct established. The penalty set forth below is designed to affirm the Committee's rejection of the acts by Respondent while imposing a fair punishment and offering sufficient protection to the public.

ORDER

WHEREFORE, Based upon the preceding facts and conclusions,

It is hereby ORDERED that:

1. The Factual allegations in the Statement of Charges (Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

3. The license of Respondent to practice medicine in the state of New York is hereby **SUSPENDED** for a period of one year;

Furthermore, it is hereby **ORDERED** that;

4. The said **SUSPENSION** of the license of Respondent to practice medicine in the state of New York is hereby **STAYED**;

Furthermore, it is hereby **ORDERED** that;

5. In lieu of the said suspension of the license of Respondent to practice medicine in the State of New York, Respondent shall be undergo a term of **PROBATION** of not less than **FOUR YEARS** under the following terms:

- a.) Respondent shall produce a copy of his New York State and Federal Income Tax Returns for each year of his probation to the Director of the Office of Professional Medical Conduct or his or her designee;
- b.) Respondent shall provide evidence, satisfactory to the Director of the Office of Professional Medical Conduct or his or her designee, that he has successfully completed all the terms of probation and the sentence imposed by the County Court of Albany County in the underlying criminal conviction;
- c.) Such other terms and conditions as shall be deemed appropriate by the Director of the Office of Professional Medical Conduct or his or her designee to carry out the intention of this Order

Furthermore, it is hereby **ORDERED** that;

5. This order shall take effect **UPON RECEIPT** by Respondent or his attorney or **SEVEN (7) DAYS** after mailing of this order by Certified Mail to Respondent or her attorney.

Dated:
Buffalo, New York

4/22 1999


JOHN W. CHOATE, M.D., Chairperson

HOWARD SOHNEN, M.D.
D. MARISA FINN

TO:

ROBERT BOGAN, ESQ.
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower
Albany, N.Y. 12237

EDWARD H. FOX, ESQ.
Harris Beach & Wilcox, LLP.
130 East Main Street
Rochester, New York 14604

MELVIN K. PISETZNER, M.D.
5675 Smith Road
Pittsford, N.Y. 14534

APPENDIX ONE

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

-----X

IN THE MATTER : STATEMENT
OF : OF
MELVIN K. PISETZNER, M.D. : CHARGES

-----X

MELVIN K. PISETZNER, M.D., the Respondent, was authorized to practice medicine in New York State on February 2, 1973 by the issuance of license number 114914 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 3, 1998, in the County Court of Albany County, State of New York, the Respondent entered a plea of guilty and was found guilty of one count of Repeated Failure To File; Personal Income And Earnings Taxes, Section 1802(a) of the Tax Law of the State of New York, a crime.

B. As a result of the conviction referred to in Paragraph A above, the Respondent was sentenced to time served, five (5) years probation, restitution, and a surcharge of \$155.00.

C. The conviction referred to in paragraphs A and B above was in satisfaction of Supreme Court Information #AG-10-98 dated August 3, 1998.

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(a)(i) by reason of having been convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

The facts in Paragraph A, B and/or C.

DATED: *October 28*, 1998
Albany, New York

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