



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

October 11, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
& Robert Maher, Esq.
NYS Department of Health
Hedley Park Place – 4th Floor
Troy, New York 12180

Alan Dumoff, Esq.
11140 Rockville Pike
Suite 530
Rockville, Maryland 20852

Bruce Rind, M.D.
17821 Mill Creek Drive
Derwood, Maryland 20855

Bruce Rind, M.D.
11140 Rockville Pike
Suite 550
Rockville, Maryland 20852

RE: In the Matter of Bruce Rind, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 01-239) 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,



Tyfone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

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

IN THE MATTER
OF
BRUCE RIND, M.D.

DETERMINATION
AND
ORDER

BPMC #01-239

COPY

A hearing was held on September 20, 2001, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Hearing and a Statement of Charges, both dated July 20, 2001, were served upon the Respondent, **Bruce Rind, M.D.** (A copy of the Notice of Hearing and the Statement of Charges is attached to this Determination and Order as Appendix 1). **Ernst A. Kopp, M.D.**, Chairperson, **Jagdish M. Trivedi, M.D.**, and **Ms. Nancy Morrison**, duly designated members of the State Board for Professional Medical Conduct ("the Board"), served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Paul Robert Maher, Esq.**, and **Robert Bogan, Esq.**, of Counsel. The Respondent appeared in person and was represented by **Alan Dumoff, Esq.**, 11140 Rockville Pike, Suite 530, Rockville, Maryland 20852.

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

The Third and the Fourth Specifications of the Statement of Charges were brought pursuant to Public Health Law Section 230(10). This section authorizes the Board to appoint a hearing committee of three of its members to hold an administrative hearing to determine whether a physician has committed professional misconduct, and, if so, to determine the penalty to be imposed.

The First and the Second Specifications of the Statement of Charges were brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing when 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 State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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)(b) and (d).

WITNESSES

For the Petitioner:	None
For the Respondent:	Bruce Rind, M.D.

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.

1. Bruce Rind, M.D., the Respondent, was authorized to practice medicine in New York State on February 23, 1979, by the issuance of license number 137365 by the New York State Education Department (Petitioner's Ex. 4).

2. On December 20, 2000, the Maryland State Board of Physician Quality Assurance ("Maryland Board"), by a Consent Order ("Consent Order"), reprimanded the Respondent, placed him on eighteen months probation, imposed an \$8,000.00 monetary penalty and required him to enroll in and successfully complete several courses, based on a failure to document patient records adequately, failure to medically manage patient's conditions adequately, willful submission of false statements to collect fees, and practicing fraudulently (Petitioner's Ex. 6).

3. On January 3, 2001, the Respondent signed and submitted a registration document to the New York State Education Department, wherein he checked the "NO" box to the question, "Since you last registered, has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked, suspended, or accepted surrender of a professional license held by you?" (Petitioner's Ex. 5)

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent in Maryland would constitute professional misconduct under the laws of New York State pursuant to:

1. New York Education Law Section 6530(2) (practicing the profession fraudulently or beyond its authorized scope);
2. New York Education Law Section 6530(20) (moral unfitness);
3. New York Education Law Section 6530(21) (willfully making or filing a false report);

4. New York Education Law Section 6530(24) (practicing the profession beyond the scope permitted by law); and

5. New York Education Law Section 6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

Contrary to the Statement of Charges, the Hearing Committee did not find sufficient evidence in the hearing record of conduct that, if committed in New York State, would constitute violations of New York Education Law Section 6530(3) (negligence on more than one occasion) or New York Education Law Section 6530(16) (willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine).

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

“Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or 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...”

VOTE: Sustained (3-0)

SECOND SPECIFICATION

“Respondent violated New York Education Law Section 6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York state...”

VOTE: Sustained (3-0)

THIRD SPECIFICATION

"Respondent violated New York Education Law Section 6530(2) by practicing the profession fraudulently in that Petitioner charges...On or about January 3, 2001, Respondent prepared and submitted a registration document to the New York State Education Department, wherein he checked the "No" box to the question 'Since you last registered, has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked, suspended, or accepted surrender of a professional license held by you?'"

VOTE: Not sustained (3-0)

FOURTH SPECIFICATION

"Respondent violated New York Education Law Section 6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, in that Petitioner charges... On or about January 3, 2001, Respondent prepared and submitted a registration document to the New York State Education Department, wherein he checked the "No" box to the question 'Since you last registered, has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked, suspended, or accepted surrender of a professional license held by you?'"

VOTE: Not sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Maryland Order documents numerous acts that would constitute professional misconduct under the laws of New York State had they been committed in New York. The Maryland Order held that the Respondent "willfully submitted false statements to collect fees for services which were not provided in regard to [nine patients]..." (Petitioner's Ex. 6, p. 18). The Maryland Order also contains many examples of medical

record keeping that fall far short of minimum requirements. These record keeping deficiencies include failing to document patient symptoms, physical findings, diagnoses and treatment plans; failing to document patient progress; and failing to document the substances and amounts used in intravenous therapy (Petitioner's Ex. 6, pp. 17-18).

On January 3, 2001, the Respondent submitted a registration form to the New York State Education Department. On this form, the "No" box was checked for the question, "Since you last registered, has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked, suspended, or accepted surrender of a professional license held by you?" Because of the prior year's disciplinary proceedings in Maryland, the Respondent's answer was not accurate.

The Respondent testified that the form was prepared by his office manager, Donna Brothers, who misunderstood the question. This testimony is corroborated by the September 18, 2001, affidavit of Ms. Brothers (Respondent's Ex. A, pp. 16-18). He testified that he glanced over the form before he signed it, rather than reading it thoroughly. He testified that he did not know at that time that he was submitting to the New York State Department of Education a form with a false answer. The Hearing Committee, which observed the Respondent's demeanor throughout his testimony, concludes that the Respondent's testimony on this issue was credible. The false answer was the result of carelessness, not of an intent to deceive. Contrary to the Third and the Fourth Specifications of the Statement of Charges, there was no willful filing of false information and no intent to defraud. The Third and the Fourth Specifications are not supported by the hearing record.

The Respondent recommended to the Hearing Committee that a small fine be assessed and that the Committee accept his assurance that he will not practice medicine

in New York State until he has successfully completed his probation in Maryland. In support of this position, the Respondent noted that there were no patient complaints and no allegations of harm to patients in the Maryland disciplinary proceedings.

The Respondent's recommendation is inadequate, given the large number of infractions disclosed in the Maryland Order, some of which were willful violations of the Respondent's responsibilities. A penalty more likely to provide necessary protection to the patients of New York State and those who pay for their medical care is found in the Order, below.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine is suspended. The suspension will be terminated upon documentation provided by the Respondent that he has successfully completed probation in Maryland. This documentation must be provided to the Petitioner's Office of Professional Medical Conduct (NYS Department of Health, Hedley Park Place, 433 River Street, Troy, New York 12180-2299).

2. A fine of \$1,000.00 is imposed. The fine is payable within 90 days of the effective date of this Order. Payment must be submitted to the Bureau of Accounts Management, NYS Department of Health, Empire State Plaza, Corning Tower, Room 1258, Albany, New York 12237.

3. If the Respondent returns to the practice of medicine in New York State, a three-year period of probation will be imposed. The Respondent must enter a probation agreement with the Office of Professional Medical Conduct prior to the resumption of the practice of medicine. The probation agreement will require the Respondent to have a practice monitor who will review the Respondent's medical practices, his medical record keeping and his billing practices.

4. 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: Loudonville, New York
Oct 5th, 2001



Ernst A. Kopp, M.D.
Chairperson

Jagdish M. Trivedi, M.D.
Nancy Morrison

APPENDIX I



EV 9120101

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

-----X

IN THE MATTER : NOTICE
OF : OF
BRUCE RIND, M.D. : HEARING
CO-01-02-0614-A

-----X

TO: BRUCE RIND, M.D.
17821 Mill Creek Drive
Derwood, MD 20855

BRUCE RIND, M.D.
11140 Rockville Pike
Suite 550
Rockville, MD 20852

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 23rd of August, 2001, at 10:00 in the forenoon of that day at the Heldey Park Place, 5th Floor, 433 River Street, Troy, New York, 12180 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, that 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 Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five(5) 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(10)(c), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten(10) days prior to the date of the hearing. Any Charge and 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 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 DETERMINATION 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. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
July 20, 2001


PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to:

Robert Bogan
Associate Counsel
Division of Legal Affairs
Bureau 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

**BRUCE RIND, M.D.
CO-01-02-0614-A**

STATEMENT

OF

CHARGES

BRUCE RIND, M.D., the Respondent, was authorized to practice medicine in New York state on February 23, 1979, by the issuance of license number 137365 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 20, 2000, the Maryland State Board of Physician Quality Assurance (hereinafter "Maryland Board"), by a Consent Order (hereinafter "Maryland Order"), REPRIMANDED Respondent, placed him on eighteen (18) months PROBATION, imposed an \$8,000.00 monetary penalty, and required that he enroll in and successfully complete courses in medical records documentation, family practice or internal medicine, and a CPT code course, based on failure to appropriately document patient records, failure to appropriately medically manage patients' conditions, negligence on more than one occasion, willfully submission of false statements to collect fees, failure to keep adequate records, and practicing fraudulently.

B. The conduct resulting in the Maryland Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530 (2) (practicing the profession fraudulently or beyond its authorized scope);
2. New York Education Law §6530 (3) (negligence on more than one occasion);

3. New York Education Law §6530 (16) (failure to comply with federal, state, or local laws, rules, or regulations);
4. New York Education Law §6530(20) (moral unfitness);
5. New York Education Law §6530(21) (willfully making or filing a false report);
6. New York Education Law §6530(24) (practicing the profession beyond the scope permitted by law); and/or
7. New York Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

C. On or about January 3, 2001, Respondent prepared and submitted a registration document to the New York State Education Department, wherein he checked the "No" box to the question "Since you last registered, has any state other than New York instituted charges against you for professional misconduct, unprofessional conduct, incompetence or negligence or revoked, suspended, or accepted surrender of a professional license held by you?"

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or 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, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(2) by practicing the profession fraudulently, in that Petitioner charges:

3. The facts in Paragraphs A, B, and/or C.

FOURTH SPECIFICATION

Respondent violated New York Education Law §6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, in that Petitioner charges:

4. The facts in Paragraphs A, B, and/or C.

DATED: *July 20*, 2001
Albany, New York



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