



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Public

May 2, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Romuald N. Sluyters, M.D.
P.O. Box 124
Mattituck, New York 11952

Romuald N. Sluyters, M.D.
P.O. Box 4177
Manchester, New Hampshire 03103

Romauld N. Sluyters, M.D.
22 Barrington Drive
Bedford, New Hampshire 03110

Romauld N. Sluyters, M.D.
1350 Sebastian's Cover
Mattituck, New York 11952

Raymond J. Furey, Esq.
Furey, Kerle, Walsh, Matera
& Cinquemani, P.C.
2174 Jackson Avenue
Seaford, New York 11783

Robert Bogan, Esq.
NYS Department of Health
Hedley Building - 4th Floor
433 River Street
Troy, New York 12180

RE: In the Matter of Romuald N. Sluyters, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 07-95) 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 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,



Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

COPY

IN THE MATTER
OF
ROMUALD N. SLUYTERS, M.D.

DETERMINATION

AND

ORDER

BPMC 07-95

A hearing was held on April 18, 2007, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated November 9, 2006, were served upon the Respondent, **Romuald N. Sluyters, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Andrew J. Merritt, M.D.**, Chairperson, **Michael D. Merrill, M.D.**, and **Ms. Ann Ford Fricke**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent appeared in person and was represented by **Furey, Kerley, Walsh, Matera & Cinquemani, Raymond J. Furey, Esq.**, of Counsel.

Evidence was received and transcripts of these proceedings were made.

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

BACKGROUND

This case was brought pursuant to Public Health Law Section 230(10)(p). The 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)(d). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:

None

For the Respondent:

Romuald N. Sluyters, 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. Romuald N. Sluyters, M.D., the Respondent, was authorized to practice medicine in New York State on July 1, 1996, by the issuance of license number 203525 by the New York State Education Department (Petitioner's Ex. 7).

2. On November 3, 2006, the New Hampshire Board of Medicine ("New Hampshire Board"), by a Settlement Agreement ("New Hampshire Agreement"), reprimanded the Respondent, suspended his license to practice medicine for five years

(with a possibility of a reduction of the term of the suspension after three years), and fined him \$1,500.00. These sanctions were imposed based on the Respondent having engaged in a romantic and sexual relationship with a patient during the course of her treatment; on the Respondent having filled out a Patient Status Form for this patient that excused the patient from work for an inaccurate medical reason; and on the Respondent having prescribed pain medications for the patient without maintaining adequate medical records documenting the writing of the prescriptions. (Petitioner's Ex. 8).

HEARING COMMITTEE CONCLUSIONS

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

- New York Education Law Section 6530(3) - "Practicing the profession with negligence on more than one occasion;"
- New York Education Law Section 6530(20) - "Conduct in the practice of medicine which evidences moral unfitness to practice medicine;" and
- 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. Unless otherwise provided by law, all patient records must be retained for at least six years..."

The Statement of Charges also alleged that the Respondent's conduct, had it occurred in New York State, would have constituted professional misconduct under New York Education Law Section 6530(17) - "Exercising undue influence on the patient..." For reasons to be explained below, the Hearing Committee does not sustain this allegation.

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension and/or disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The New Hampshire Board imposed several sanctions on the Respondent, including a fine, a reprimand and a five-year suspension of his license. The Respondent was given the opportunity to apply for an early termination of the suspension after serving three years of the suspension. This action was taken because the Respondent had a sexual relationship with a patient during the time that he was treating her, because he wrote false information on a Patient Status Form for the purpose of having her excused from work, and because he prescribed a pain medication, Vicodin, for her without keeping adequate medical records regarding these prescriptions.

The Petitioner alleged that these acts, had they occurred in New York State, would constitute professional misconduct in four ways: negligence on more than one occasion (Education Law Section 6530[3]), exercising undue influence on the patient (Education Law Section 6530[17]), moral unfitness (Education Law Section 6530[20]), and inadequate record keeping (Education Law Section 6530[32]). The Respondent conceded during the hearing that the Petitioner was correct regarding negligence, moral unfitness and inadequate record keeping. The Hearing Committee has sustained these three allegations. The Respondent, however, opposed the position that his sexual

relationship with the patient constituted undue influence over her. He noted that there was no such conclusion in the New Hampshire Agreement and no factual information in the evidence that could support a finding of undue influence. The Petitioner countered that the existence of a sexual relationship between a physician and his patient is per se the exercise of undue influence by the physician. The Hearing Committee is unconvinced by the Petitioner's argument. Whether a sexual relationship is the result of or the exercise of undue influence must be decided on a case-by-case basis. Resolution of the issue depends on such facts as how the relationship began and what the patient's emotional condition was. The New Hampshire Agreement does not contain the information needed to conclude that undue influence was exercised.

The Petitioner recommended that the Respondent's license to practice medicine be revoked. The Respondent argued that this was an unnecessarily harsh penalty and that the Hearing Committee should impose a penalty similar to that imposed by the New Hampshire Board. The Petitioner's recommendation is accepted. The Respondent faces the possibility of criminal charges in New Hampshire. Because of this, his attorney has advised him to invoke his right against self-incrimination by declining to testify on any subject related to the charges against him. The Respondent, of course, has the right to do this. However, the exercise of that right has left the Hearing Committee, in determining whether it is safe to impose a penalty less severe than a revocation, without the information it needs from the only person who can reliably and persuasively provide that information. Without testimony from the Respondent about the circumstances under which the professional misconduct occurred, the effect of the New Hampshire proceedings on him and why the Hearing Committee should conclude that he can be trusted to never repeat his unacceptable behavior, it cannot be concluded with an acceptable degree of reliability that there is no need to revoke the Respondent's license.

This is not a case in which a physician committed one isolated act of professional misconduct. There was a wide range of misconduct: sexual misconduct with a patient, inadequate record keeping regarding a controlled substance, and an attempt to trick a patient's employer by providing false medical information. The improper relationship with the patient was not a loss of self-control on one atypical occasion. It was a lengthy, ongoing relationship. With such charges, the Hearing Committee cannot deny Petitioner's request for a license revocation with no testimony on the charges from the Respondent. Instead, the Respondent's case consisted of Respondent's Exhibit A, which is a summary of the events in Vermont written by the Respondent's attorney, and an April 12, 2007, letter addressed To Whom It May Concern and signed by Thomas J. Kleeman, M.D. The Respondent's attorney has no personal knowledge of the New Hampshire events and cannot provide the information that the Hearing Committee needs to assess whether a penalty less severe than a revocation can be imposed safely. Dr. Kleeman's letter is limited to the question of whether the prescriptions for the controlled substance were medically indicated. This, however, was not the subject of the Statement of Charges. As stated by the Petitioner's attorney, the allegation regarding the controlled substance is that the Respondent's record keeping regarding the controlled substance was inadequate, not that it should not have been prescribed.

The Respondent argued that it would be unfair for his license to be revoked in New York State because New York would be imposing a penalty more severe than that imposed in the State in which the professional misconduct occurred. This argument is rejected. This Hearing Committee must make its own decision as to what is needed to protect the people of New York State. If it is determined that a more severe penalty is needed than that imposed elsewhere, this Hearing Committee can and should impose the penalty that it believes is needed.

The Respondent's license will be revoked. The Respondent is advised that after three years, he can apply to have his license restored.

ORDER

IT IS HEREBY ORDERED THAT:

1. The license of the Respondent to practice medicine in New York State is revoked.

2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

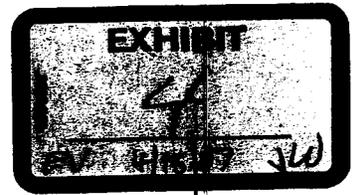
DATED: Marcellus, New York
4/27/07, 2007



Andrew J. Merritt, M.D.
Chairperson

Michael D. Merrill, M.D.
Ann Ford Fricke

APPENDIX I



ORIGINAL

IN THE MATTER

NOTICE OF

OF

REFERRAL

ROMUALD N. SLUYTERS, M.D.
CO-05-08-3841-A

PROCEEDING

TO: ROMUALD N. SLUYTERS, M.D.
P.O. Box 124
Mattituck, NY 11952

ROMUALD N. SLUYTERS, M.D.
P.O. Box 4177
Manchester, NH 03103

ROMAULD N. SLUYTERS, M.D.
22 Barrington Drive
Bedford, NH 03110

ROMAULD N. SLUYTERS, M.D.
1350 Sebastian's Cover
Mattituck, NY 11952

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. 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 December, 2006, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), 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. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated 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. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the 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: Albany, New York

November 9, 2006


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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office 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
ROMUALD N. SLUYTERS, M.D.
CO-05-08-3841-A

STATEMENT
OF
CHARGES

ROMUALD N. SLUYTERS, M.D., Respondent, was authorized to practice medicine in New York state on July 1, 1996, by the issuance of license number 203525 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 3, 2006, the State of New Hampshire, Board of Medicine (hereinafter "New Hampshire Board"), by a Settlement Agreement (hereinafter "New Hampshire Agreement"), inter alia, reprimanded Respondent suspended his license to practice medicine for five (5) years commencing July 7, 2005, and fined him \$1,500.00, based on from on about between June 2003 to on or about December 2004, during the course of treatment of a patient, engaging in a consensual romantic relationship with the patient; on or about February 22, 2005, completing a Patient Status Form for the patient excusing the patient from work for an inaccurate medical reason; between on or about February 21, 2005, and April 2005, engaging in a consensual sexual relationship with the patient; and between on or about January 2005 and April 2005, continuing to prescribe pain medication for the patient without maintaining adequate treatment records documenting the writing of the prescriptions.

B. The conduct resulting in the New Hampshire Board 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(3) (negligence on more than one occasion);
2. New York Education Law §6530(17) (exercising undue influence on the patient);
3. New York Education Law §6530(20) (moral unfitness); and/or
4. New York Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension and/or disciplinary action 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.

DATED: *Nov. 9*, 2006
Albany, New York


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