



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

July 14, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John M. Connolly, M.D.
8348 East Jamison Circle South
Englewood, Colorado 80112

Michael A. Hiser, Esq.
Associate Counsel
New York State Department of Health
Tower Building - Room 2429
Albany, New York 12237

Effective Date: 7/21/94

RE: In the Matter of John M. Connolly, M.D.

Dear Dr. Connolly and Mr. Hiser :

Enclosed please find the Determination and Order (No. 94-113) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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 (i), 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
Empire State Plaza
Corning Tower, Room 2503
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.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler" followed by a stylized flourish.

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 : DETERMINATION
OF : AND
JOHN M. CONNOLLY, M.D. : ORDER
-----X NO. BPMC-94-113

A Notice of Hearing, dated May 24, 1994, and a Statement of Charges, dated May 19, 1994, were served upon the Respondent, John M. Connolly, M.D. **RAVENDRA N. SHARMA, M.D.** (Chair), **OLIVE M. JACOB**, and **STEVEN V. GRABIEC, M.D.**, 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. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Michael A. Hiser, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on June 29, 1994. Evidence was received and witnesses sworn and heard 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 §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 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, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses 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. John M. Connolly, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on August

16, 1956 by the issuance of license number 078168 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. He has not been registered since at least 1980, the earliest date for which records of registrations have been maintained. (Pet. Ex. #2).

2. On or about May 19, 1992, the State Board of Medical Examiners of the State of Colorado (hereinafter "Colorado Board") issued an Order directing Respondent to appear for a physical examination in Denver, Colorado on June 2, 1992. Respondent was also ordered to provide records of any psychiatric or substance abuse evaluation or assessment of himself conducted in the five years preceding that date. (Pet. Ex. #3).

3. The basis for the Order was the Colorado Board's finding that there was reasonable cause to believe that Respondent was "unable to practice medicine with reasonable skill and safety to patients due to a condition specified in Colorado Revised Statutes Section 12-36-117(1)(i) [habitual intemperance or excessive use of any habit forming drug ... or any controlled substance] or (o) [such physical or mental disability as to render the licensee unable to perform medical services with reasonable skill and with safety to the patient]". (Pet. Ex. #3).

4. The Colorado Board found that Respondent had been admitted to the Littleton Hospital in August, 1991, in alcohol withdrawal and with many medical problems, resulting in incoherence and disorientation. Thereafter, Respondent was transferred to a rehabilitation center, from which he discharged

himself against medical advice. Respondent refused evaluation by the Colorado Physician Health Program, maintaining that he had a magnesium deficiency, rather than a problem with alcohol (Pet. Ex. #3).

5. On or about June 12, 1992, by the issuance of an "Order of Suspension From the Practice of Medicine", the Colorado Board suspended Respondent's license to practice medicine in Colorado. The basis for the suspension was Respondent's refusal to submit to the examination ordered by the Colorado Board on May 19, 1992. (Pet. Ex. #3).

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that the Colorado Board suspended Respondent's license to practice medicine in that state due to his refusal to submit to a physical examination duly ordered by the Board.

Respondent's conduct, if committed in New York State, would constitute professional misconduct in violation of New York Education Law §6530(15) [failure to comply with an Order issued pursuant to Public Health Law §230(7)]. As a result, the Hearing Committee voted to sustain the Specification of professional misconduct.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The record established that Respondent was suspended by the Colorado Board due to their concerns about Respondent's physical and mental competence to practice the profession safely, following his refusal to submit to a duly authorized physical and psychiatric examination. Respondent failed to appear at the instant hearing, nor did he submit any evidence which might indicate that he is not physically or mentally impaired for the practice of the profession.

Respondent does not practice medicine in New York State, nor is he currently registered to do so. As a result, it would not be possible for the Hearing Committee to maintain any meaningful monitoring of Respondent's physical or mental status, nor his ability to practice medicine. Under the totality of the circumstances, the Hearing Committee concluded that revocation is the only appropriate sanction.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is SUSTAINED;

2. Respondent's license to practice medicine in New York State be and hereby is REVOKED.

DATED: Albany, New York

July 12, 1994



RAVENDRA N. SHARMA, M.D. (CHAIR)

OLIVE M. JACOB
STEVEN V. GRABIEC, M.D.

TO: Michael A. Hiser, Esq.
Associate Counsel
New York State Department of Health
Tower Building - Room 2429
Albany, New York 12237

John M. Connolly, M.D.
8348 East Jamison Circle South
Englewood, Colorado 80112

APPENDIX I

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: JOHN M. CONNOLLY, M.D. : PROCEEDING
: :
-----X

TO: JOHN M. CONNOLLY, M.D.
8348 East Jamison Circle South
Englewood, California 80112

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. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 29th day of June, 1994 at 11:00 o'clock in the forenoon of that day at the Court of Claims, Justice Building, Empire State Plaza, Hearing Room #1, 7th Floor, Albany, New York, (518) 432-3480.

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: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before June 19, 1994.

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 June 19, 1994, 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: Albany, New York
May 24, 1994



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

Inquiries should be addressed to:

Michael A. Hiser
Associate Counsel
(518) 473-4282

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

-----X
IN THE MATTER : STATEMENT
OF : OF
JOHN M. CONNOLLY, M.D. : CHARGES
-----X

JOHN M. CONNOLLY, M.D., the Respondent, was authorized to practice medicine in New York State on August 16, 1956, by the issuance of license number 078168 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. He has not been registered since at least 1980, the earliest date for which records of registrations have been maintained.

FACTUAL ALLEGATIONS

A. On or about May 19, 1992, the State Board of Medical Examiners of the State of Colorado ("Colorado Board") issued an Order directing Respondent to appear for a physical examination in Denver, Colorado on June 2, 1992. Respondent was also ordered to provide records of any psychiatric or substance abuse evaluation or assessment of himself conducted in the five years preceding that date.

B. The basis for the Order was the Colorado Board's finding that there was reasonable cause to believe Respondent was "unable to practice medicine with reasonable skill and safety to patients due to a condition specified in Colorado Revised Statutes Section 12-36-117(1)(i) (habitual intemperance or excessive use of any habit forming drug ... or any controlled substance) or (o) (such physical or mental disability as to render the licensee unable to perform medical services with reasonable skill and with safety to the patient).

C. On or about June 12, 1992, by the issuance of an "Order Of Suspension From The Practice Of Medicine", the Colorado Board suspended the Respondent's license to practice medicine in Colorado. The basis for the suspension was the Respondent's refusal to submit to the examination ordered by the Colorado Board on May 19, 1992.

D. Respondent remains suspended from the practice of medicine in the State of Colorado due to his ongoing refusal to be examined as ordered by the Colorado Board.

E. The conduct resulting in Respondent's license in Colorado being suspended would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically, New York Education Law §6530(15) (failure to comply with an Order issued pursuant to subdivision seven of §230 of the Public Health Law).

SPECIFICATION OF MISCONDUCT

HAVING LICENSE TO PRACTICE MEDICINE
SUSPENDED BY DULY AUTHORIZED PROFESSIONAL
DISCIPLINARY AGENCY OF ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994), by reason of having his license to practice medicine suspended where the conduct resulting in the suspension 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, B, C, D and/or E.

DATED: Albany, New York

May 19, 1994

Peter D. Van Buren

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