



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

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

Dennis P. Whalen
Executive Deputy Commissioner

November 6, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michele Y. Tong, Esq.
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

Aruna Mishra, M.D.
317 Auburn Road
Apt. B
Woodstown, New Jersey 08079

RE: In the Matter of Aruna Mishra, M.D.

Dear Ms. Tong and Dr. Mishra:

Enclosed please find the Determination and Order (No. 97-272) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 initial 'T' and 'B'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

**IN THE MATTER
OF
ARUNA MISHRA, M.D.**

**DETERMINATION
AND
ORDER**

BPMC-97-272

A Notice of Referral Proceeding and Statement of Charges, both dated July 29, 1997, were served upon the Respondent, Aruna Mishra, M.D. **GERALD M. BRODY, M.D. (Chair), WILLIAM K. MAJOR, JR., M.D. and KENNETH KOWALD**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee (hereinafter the 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. The Department of Health appeared by Michele Y. Tong, Esq., Assistant Counsel. The Respondent failed to appear in person and was not represented by counsel. Evidence was received, statements were heard and transcripts of these proceedings were made.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited proceeding 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 prior professional disciplinary action or criminal conviction. The scope of this expedited proceeding 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)(a)(iii) (conviction of a crime under the law of another jurisdiction). The charge herein arises from Respondent being convicted of a violation of New Jersey law relating to Medicaid fraud. The allegations in this proceeding are more particularly set forth in the Statement of Charges, a copy of which are attached to and made a part of this Determination and Order as Appendix One.

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 exhibits. These citations represent evidence found persuasive by the Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Aruna Mishra, M.D.(hereinafter, "Respondent"), was licensed to practice medicine in New York State on June 13, 1975 by the issuance of license number 123936 by the New York State Education Department. (Pet. Ex. 3).

2. On or about August 19, 1996, Respondent was convicted after a plea of guilty in the Superior Court of New Jersey, Salem County, of Medicaid fraud, in violation of NJSA 30:4D-17. The conviction arose out of false and fraudulent Medicaid billings being submitted by the Respondent between the period of January 1, 1992 and August 31, 1995. (Pet. Ex. 4)

3. N.Y. Penal Law § 175.35 makes it a crime to offer a written instrument for filing with a public office with knowledge that it contains false information and that it will become part of the records of such public office. (ALJ Ex. 1)

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 Committee unless noted otherwise.

The Committee concluded that the Department has sustained its burden of proof in this matter. The preponderance of the evidence demonstrates that Respondent was convicted, upon a plea of guilty, of Medicaid fraud, a crime under New Jersey law. Furthermore, the conduct which the Respondent was found guilty of committing constitutes a crime under New York State law. Consequently, the Committee voted to sustain the Specification.

DETERMINATION AS TO PENALTY

The 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 Committee found that the Respondent had implicated her patients in her fraudulent conduct by submitting false claims using patient Medicaid beneficiary accounts for tests and office visits which were not performed or did not occur. Her crime is clearly tied to her practice of medicine. The Respondent took funds which could have been used to pay for the legitimate health care of Medicaid recipients and diverted them for her own gain. The Respondent did not appear nor did she choose to submit any documentation of any mitigating factors for the Committee to consider.

The Committee unanimously determined that a person capable of such conduct should not be afforded the privilege of practicing medicine in New York and that revocation is the only appropriate sanction under the circumstances.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Appendix I) is **SUSTAINED**;

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

REVOKED.

DATED: Tuckahoe, New York

November 3, 1997



GERALD M. BRODY, M.D. (CHAIR)

William K. Major, Jr., M.D.

Kenneth Kowald

TO: Michele Y. Tong, Esq.

Assistant Counsel

Bureau of Professional Medical Conduct

New York State Department of Health

5 Penn Plaza

Suite 601

New York, N.Y. 10001

Aruna Mishra, M.D.

317 Auburn Rd.

Apt. B

Woodstown, New Jersey 08079



MISHRA.DR

APPENDIX ONE

IN THE MATTER
OF
ARUNA MISHRA, M.D.

STATEMENT
OF
CHARGES

ARUNA MISHRA, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 13, 1975, by the issuance of license number 123936 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about August 19, 1996, in the Superior Court of New Jersey, County of Salem, Respondent pleaded guilty to Medicaid Fraud in violation of N.J.S.A. 30:4D-17a.
1. Thereafter, Respondent was sentenced inter alia to three years probation, restitution of \$74,500, a civil penalty of \$75,000 and 250 hours of community service.

SPECIFICATION OF CHARGES
CRIMINAL CONVICTION (Other Jurisdiction)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(a)(iii)(McKinney Supp. 1997) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law (namely N.Y. Penal Law §175.35) as alleged in the facts of the following:

1. Paragraphs A and A1.

DATED: July 27, 1997
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct