



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.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

June 28, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Jonathan S. Ross, M.D.
P. O. Box 1520
Cherry Hill, New Jersey 08034-0066

RE: In the Matter of Jonathan S. Ross, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-198) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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, appearing to read "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:cah
Enclosure

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

COPY

IN THE MATTER
OF
JONATHAN S. ROSS, M.D.

DETERMINATION

AND

ORDER

BPMC # 00-198

A Commissioner's Order and Notice of Hearing dated, May 10, 2000 and a Statement of Charges dated May 9, 2000, were served upon the Respondent, **JONATHAN S. ROSS, M.D.**

ANDREW J. MERRITT, M.D., Chairperson, **NANCY J. STUBBE, 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on June 14, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent failed to appear.

Evidence was received and transcripts of these proceeding 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 230(10)(p). The statute provide for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, 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 cast, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii), a(iii), (b) and (d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	None

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis 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. All Hearing Committee findings were unanimous unless otherwise stated.

1. **JONATHAN SCOTT ROSS, M.D.**, the Respondent, was authorized to practice medicine in New York state on July 1, 1983, by the issuance of license number 154637 by the New York State Education Department. (Pet's. Ex. 3)

2. On April 30, 1999, in the United States District Court, District of New Jersey (Camden), the Respondent was found guilty of obtaining possession of controlled substances by misrepresentation, fraud, forgery, deception, and subterfuge, in violation of Title 21, United States Code, Section 843(a)(3), and on October 14, 1999, he was sentenced to three (3) years probation with conditions, a \$1,000.00 fine, and a \$100.00 assessment. (Pet's. Ex. 4)

3. On September 22, 1999, in the Superior Court of New Jersey, Law Division Camden County Criminal, Camden, New Jersey, the Respondent was found guilty of Unlawful Possession of a Weapon (Handgun), third degree, in violation of New Jersey Statutes 2C:39-5b, and on or about October 22, 1999, was sentenced to one year non-custodial, non-reporting, probation concurrent to the Federal Probation, as set forth in Finding of Fact #2 above, and fined \$155.00. (Pet's. Ex. 5)

4. On April 12, 2000, the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (hereinafter "New Jersey Board"), by a Consent Order Granting Surrender of License (hereinafter "New Jersey Order"), granted Respondent leave to immediately surrender his license to practice medicine and surgery, and required him to surrender his D.E.A. license and to pay a \$7,500.00 penalty, based on the convictions set forth in Findings of Fact #2 and #3 above; failure to comply with an order of the New Jersey Board; prescribing Controlled Dangerous Substances (hereinafter "CDS") in the names of patients and paying the patients to return the CDS to him for his own use and abuse; maintaining a load semi-automatic firearm in the trunk of his car, thereby, increasing the risk of harm to the public whom he is obliged to protect; repeated acts of negligence, malpractice or incompetence, and engaging in repeated sexual acts with patients. (Pet's. Ex. 6)

5. By Order, dated May 10, 2000, Antonia C. Novello, M.D., M.P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board of Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that **JONATHAN S. ROSS, M.D.** has been found guilty of committing an act constituting a felony under federal law, in the United States District Court, District of New Jersey (Camden), the law of another jurisdiction, in the Superior Court of New Jersey, Law Division Camden County Criminal, Camden, New Jersey, which, if committed within New York state would have constituted a felony under New York state law and disciplined by a duly authorized professional disciplinary agency of another jurisdiction, namely, the State of New Jersey, Department of Law and Public Safety,

Division of Consumer Affairs, State Board of Medical Examiners, for acts which if committed in the state of New York would have constituted the basis for summary action pursuant to New York Public Health Law Section 230(12)(a), and, and has further determined that the continued practice of medicine in the state of New York by **JONATHAN S. ROSS, M.D.**, the Respondent, constitutes imminent danger to the health of the people of this state.

The Commissioner, ORDERED, pursuant to New York Public Health Law Section 230(12)(b), that effective immediately, **JONATHAN S. ROSS, M.D.**, the Respondent, shall not practice medicine in the State of New York. This Order shall remain effect unless notified or vacated by the Commissioner of health pursuant to New York Public Health Law Section 230(120). (Pet's. Ex. 1)

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct resulting in the New Jersey Board's disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to:

- New York Education Law §6530(3) (negligence on more than one occasion);
- New York Education Law §6530(5) (incompetence on more than one occasion);
- New York Education Law §6530(9)(a)(ii) (being convicted of a crime under federal law);

- New York Education Law §6530(9)(a)(iii) (being convicted of a crime under the law of another jurisdiction);

- New York Education Law §6530(16) (failure to comply with federal, state, or local laws or rules regulating the practice of medicine);

- New York Education Law §6530(17) (undue influence on a patient);

- New York Education Law §6530(20) (moral unfitness);

- New York Education Law §6530(24) (practicing beyond the scope permitted by law); and/or

- New York Education Law §6530(31) (harassing, abusing, or intimidating a patient).

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York State Education Law §6530(9)(a)(ii) by reason of having been convicted of an act constituting a crime under federal law.

VOTE: SUSTAINED (3-0)

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(a)(iii) by reason of having been convicted of an act constituting a crime under the laws of another state.

VOTE: SUSTAINED (3-0)

THIRD SPECIFICATION

Respondent violated New York State 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.

VOTE: SUSTAINED (3-0)

FOURTH SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having had disciplinary action taken or having surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action or surrender 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 record in this case indicates that on April 30, 1999, the Respondent was convicted in federal court of obtaining possession of controlled substances by misrepresentation, fraud, forgery, deception and subterfuge.

Approximately five months later, on September 22, 1999, the Respondent was convicted in a New Jersey state court of Unlawful Possession of a Weapon (Handgun), third degree.

Based on the federal and state convictions and also on charges of repeated acts of negligence, malpractice or incompetence, and engaging in repeated sexual acts with patients, the New Jersey State Board of Medical Examiners granted the Respondent leave to immediately surrender his license to practice medicine and surgery, required him to surrender his DEA license and to pay a \$7,500.00 penalty.

The Respondent failed to appear at the instant hearing and he did not submit any evidence in mitigation of the charges.

The Hearing Committee determines unanimously (3-0) that the Respondent's license to practice medicine in the State of New York should be REVOKED.

ORDER

IT HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby REVOKED.

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

IN THE MATTER
OF
JONATHAN SCOTT ROSS, M.D.

STATEMENT
OF
CHARGES

JONATHAN SCOTT ROSS, M.D., the Respondent, was authorized to practice medicine in New York state on July 1, 1983, by the issuance of license number 154637 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 30, 1999, in the United States District Court, District of New Jersey (Camden), Respondent was found guilty of obtaining possession of controlled substances by misrepresentation, fraud, forgery, deception, and subterfuge, in violation of Title 21, United States Code, Section 843(a)(3), and on or about October 14, 1999, was sentenced to three (3) years probation with conditions, a \$1,000.00 fine, and a \$100.00 assessment.

B. On or about September 22, 1999, in the Superior Court of New Jersey, Law Division Camden County Criminal, Camden, New Jersey, Respondent was found guilty of Unlawful Possession of a Weapon (Handgun), third degree, in violation of New Jersey Statutes 2C:39-5b, and on or about October 22, 1999, was sentenced to one year non-custodial, non-

reporting, Probation concurrent to the Federal Probation, as set forth in Paragraph A above, and fined \$155.00.

C. On or about April 12, 2000, the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (hereinafter "New Jersey Board"), by a Consent Order Granting Surrender of License (hereinafter "New Jersey Order"), granted Respondent leave to immediately surrender his license to practice medicine and surgery, and required him to surrender his D.E.A. license and to pay a \$7,500.00 penalty, based on the convictions set forth in Paragraphs A and B above, failure to comply with an order of the New Jersey Board, prescribing Controlled Dangerous Substances (hereinafter "CDS") in the names of patients and paying the patients to return the CDS to him for his own use and abuse, maintaining a loaded semi-automatic firearm in the trunk of his car, thereby, increasing the risk of harm to the public whom he is obliged to protect, repeated acts of negligence, malpractice or incompetence, and engaging in repeated sexual acts with patients.

D. The conduct resulting in the New Jersey 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 (3) (negligence on more than one occasion);
2. New York Education Law §6530(5) (incompetence on more than one occasion);
3. New York Education Law §6530(9)(a)(ii) (being convicted of a crime under federal law);
4. New York Education Law §6530(9)(a)(iii) (being convicted of a crime under the law of another jurisdiction);

5. New York Education Law §6530(16) (failure to comply with federal, state, or local laws or rules regulating the practice of medicine);
6. New York Education Law §6530(17) (undue influence on a patient);
7. New York Education Law §6530(20) (moral unfitness);
8. New York Education Law §6530(24) (practicing beyond the scope permitted by law); and/or
9. New York Education Law §6530(31) (harassing, abusing, or intimidating a patient).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by reason of having been convicted of an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in paragraph A.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by reason of having been convicted of an act constituting a crime under federal law, in that Petitioner charges:

2. The facts in paragraph B.

THIRD 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:

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

FOURTH SPECIFICATION

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

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

DATED: *May 9*, 2000
Albany, New York


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