



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*

February 3, 1997

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Anne Gayle, Esq.  
NYS Department of Health  
5 Penn Plaza - Suite 601  
New York, New York 10001

Samuel R. Splitter, M.D.  
3750 Galt Ocean Mile Drive  
Fort Lauderdale, Florida 33308

**RE: In the Matter of Samuel R. Splitter, M.D.**

Dear Ms. Gayle and Dr. Splitter:

Enclosed please find the Determination and Order (No. 97-36) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 a long horizontal stroke at the end.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:crc  
Enclosure

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

COPY

-----X  
IN THE MATTER : DETERMINATION  
: :  
OF : AND  
: :  
SAMUEL R. SPLITTER, M.D. : ORDER  
-----X

BPMC-97-36

A Notice of Referral Proceeding and Statement of Charges, both dated December 4, 1996, were served upon the Respondent, Samuel R. Splitter, M.D. **CAROLYN C. SNIPE (Chair), WILLIAM K. MAJOR, JR., M.D., and NOEL L. COHEN, 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 Ann Gayle, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on January 22, 1997. 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)(b) [having been found guilty of improper practice or professional misconduct by a duly authorized professional disciplinary agency of another state]. 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. Samuel R. Splitter, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on November 10, 1943 by the issuance of license number 042094 by the New York State Education Department. (Pet. Ex. #2).

2. On or about June 20, 1996, in a Final Order, the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners (hereinafter the "New Jersey Board") revoked Respondent's license to practice medicine in the State of New Jersey. Respondent was further ordered to pay a penalty of \$7,500 and to pay the costs connected with the enforcement matter. (Pet. Ex. #4).

3. The New Jersey Board found that between May, 1981 and November, 1993, Respondent treated a known alcoholic patient for hypertension and back pain by prescribing large doses of Percodan, Tylox, Doriden, Levo-Dromoron, Tylenol with codeine, Vicodin, Hycomine, Noludar, Halcion, Fastin, Valium and Phentermine. Respondent admitted the conduct during testimony before a Preliminary Evaluation Committee of the New Jersey Board on September 28, 1994. (Pet. Ex. #4).

4. The New Jersey Board found Respondent's prescribing of controlled dangerous drugs to constitute gross and repeated

negligence, malpractice or incompetence, in violation of N.J.S.A. §§45:1-21(c) and 45:1-21(d). Respondent failed to file an answer to the Complaint, as required by New Jersey law, or to otherwise communicate in any manner with the New Jersey Board concerning this matter, and failed to appear at his hearing. (Pet. Ex. #4).

#### 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 in this matter. The preponderance of the evidence demonstrates that Respondent was disciplined by the New Jersey Board, the duly authorized professional disciplinary agency of the state of New Jersey. The conduct for which Respondent was disciplined would, if committed in New York State, constitute professional misconduct in violation of Education Law §6530(3) [negligence on more than one occasion], §6530(4) [gross negligence], §6530(5) [incompetence on more than one occasion], and §6530(6) [gross incompetence]. Accordingly, the Hearing Committee voted to sustain the specification of professional misconduct set forth in the Statement of Charges.

### 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 New Jersey Board found that Respondent's pattern of prescribing controlled drugs to a known alcoholic indicated flawed professional judgment, and that he failed to recognize the substantial risk of harm and the abuse potential he created. Respondent failed to contest the allegations brought by the New Jersey Board. He further failed to appear before this Hearing Committee, or to present any evidence which might mitigate the sanction to be imposed. Under the totality of the circumstances, the Hearing Committee determined that revocation is the only sanction which will adequately protect the people of this state.

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;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York  
1/30, 1997

  
CAROLYN C. SNIPE (CHAIR)

WILLIAM K. MAJOR, JR., M.D.  
NOEL L. COHEN, M.D.

(12)

TO: Ann Gayle, Esq.  
Associate Counsel  
New York State Department of Health  
5 Penn Plaza - Suite 601  
New York, New York 10001

Samuel R. Splitter, M.D.  
3750 Galt Ocean Mile Drive  
Fort Lauderdale, Florida 33308

APPENDIX I

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

IN THE MATTER  
OF  
SAMUEL R. SPLITTER, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Samuel R. Splitter, M.D.  
3750 Galt Ocean Mile Drive  
Fort Lauderdale, Florida 33308



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1996) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1996). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on January 22, 1997, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

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. TYRONE BUTLER, 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 twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), 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 N.Y. State Admin. Proc. Act §401 (McKinney Supp. 1996) 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

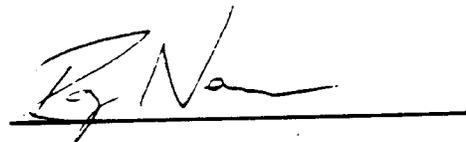
photocopied.

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: New York, New York  
December 4, 1996



ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

Ann Gayle  
Associate Counsel  
NYS Department of Health  
Division of Legal Affairs  
5 Penn Plaza, Suite 601  
New York, New York 10001  
(212) 613-2615

IN THE MATTER  
OF  
SAMUEL R. SPLITTER, M.D.

STATEMENT  
OF  
CHARGES

Samuel R. Splitter, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 10, 1943, by the issuance of license number 042094, by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about June 20, 1996, in a Final Order, the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners ("Board") revoked Respondent's license to practice medicine in the State of New Jersey, and ordered Respondent to pay a penalty of \$7,500 and to pay to the State of New Jersey the costs connected with the litigation of the aforesaid matter. Respondent was charged with three counts of misconduct pursuant, *inter alia*, to N.J.S.A. 45:1-21(c) [the licensee] has engaged in gross negligence, gross malpractice or gross incompetence, and N.J.S.A. 45:1-21(d) [the licensee] has engaged in repeated acts of negligence, malpractice or incompetence, based on the following: between May 1981 and November 1993, Respondent prescribed over a long term basis to Patient E.S., a known alcoholic, large doses of Percodan, Tylox, Doriden, Two-Dronoran, Tylenol with Codeine, Vicodin, Hycomine, Noludar, Halcion, Fastin, Valium, and Phentermine. On September 28, 1994, Respondent admitted the aforesaid conduct to the Preliminary Evaluation Committee of the New Jersey Board, and he had also made similar

admissions to investigators.

Respondent subsequently sought to reopen the aforesaid matter, but on or about September 23, 1996, Respondent's motion was denied.

**SPECIFICATION OF CHARGES**

**SPECIFICATION**  
**HAVING BEEN FOUND GUILTY OF**  
**PROFESSIONAL MISCONDUCT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1996) 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 (namely N.Y. Educ. Law §§ 3, 4, 5, 6) as alleged in the facts of the following:

1. Paragraph A.

DATED: December 4, 1996  
New York, New York

  
\_\_\_\_\_  
ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct