



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

August 25, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

William J. Lynch, Esq.
NYS Department of Health
Corning Tower Room 2509
Empire State Plaza
Albany, New York 12237

James Mark Strickland, M.D.
3506 W224 Street
Torrance, California 90505

James Mark Strickland, M.D.
13310 Sandown Ct. #247
LaMirada, California 90638

James Mark Strickland, M.D.
2217 Grove Avenue
Richmond, Virginia 23220

James Mark Strickland, M.D.
Love Lifted Me Ministry
6510 Crenshaw Blvd
Los Angeles, California 90043

RE: In the Matter of James Mark Strickland, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-235) 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.

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.

RECORD OF PROCEEDING

Summary Order Signed / Served	Dated: May 10, 2000	Served: May 16, 2000
Notice of Hearing returnable:	May 23, 2000	
Committee Decision Regarding Imminent Danger And Final Decision on Charges Rendered	June 15, 2000	
Location of Hearing:	Conducted by Conference Call	
Respondent's answer dated / served:		N/A
The State Board for Professional Medical Conduct (hereinafter referred to as "Petitioner" or "The State") appeared by:	HENRY M. GREENBERG, ESQ. General Counsel by WILLIAM J. LYNCH, ESQ. Senior Attorney Bureau of Professional Medical Conduct Albany, New York 12237	
Respondent did not appear in person ¹ and was not represented by counsel.		
Respondent was last licensed in New York State to participate in an authorized residency program at:	Mary Imogene Bassett Hospital Atwell Road Cooperstown, NY	
Respondent's Last Known Address	Love Lifted Me Ministry 6510 Crenshaw Blvd, Los Angeles, CA 90043	
Respondent's License ² Number and Registration Date		N/A
Pre-Hearing Conference Held:	May 17, 2000 by telephone	
Hearings held on:	Default	
Conferences held on:	May 17, May 23, June 15, 2000 by telephone	
Closing briefs received:	None	
Record closed:	June 15, 2000	
Date of Deliberation:	June 15, 2000 by Conference Call	

¹Respondent did participate in more than one telephone conference with counsel and the Administrative Law Judge as well as at least one call to the Administrative Law Judge in the absence of counsel.

²Respondent was never formally registered to practice medicine in this state. He did participate in an authorized residency program at the Mary Imogene Bassett Hospital in Cooperstown, NY.

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 cursive script, appearing to read "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm

Enclosure

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

**DECISION
AND**

IN THE MATTER

ORDER

OF

OF THE

HEARING COMMITTEE

JAMES MARK STRICKLAND, M.D.

ORDER NO.

BPMC 00- 235

COPY

The undersigned Hearing Committee consisting of **PETER B. KANE, M.D. CHAIRPERSON, WALTER T. GILSDORF, M.D.**, and **MS. CLAUDIA GABRIEL** was duly designated and appointed by the State Board for Professional Medical Conduct. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as Administrative Officer.

The hearing was conducted pursuant to the provisions of Section 230(10) and 230(12) of the New York State Public Health Law and Sections 301-307 and 401 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of provisions of Section 6530 of the New York Education Law by **JAMES MARK STRICKLAND, M.D.** (hereinafter referred to as "Respondent").

Under Section 230(12) of the Public Health Law, where the Commissioner of Health finds that a physician constitutes an imminent danger to the public and that it would be prejudicial to the interests of the people to delay action until the physician has had an opportunity to be heard, the Commissioner may issue an order suspending the license of the physician. A hearing is then convened and the State has the burden of going forward to show that the physician constitutes an imminent danger to the public. Such an order was issued in this case on May 10, 2000. This proceeding arises from that order.

SUMMARY OF PROCEEDINGS

The Statement of Charges in this proceeding alleges one ground of misconduct:

1. Respondent is charged with medical misconduct by **practicing while addicted to or while an habitual user of, substances and while impaired by a psychiatric condition** as set forth in N.Y. Education Law Section 6530 (8)

The allegations are more particularly set forth in the Statement of Charges which is attached hereto as Appendix One.

Petitioner called no witnesses.

Respondent defaulted and called no witnesses.

SIGNIFICANT LEGAL RULINGS:

PART ONE: Documents Received in Evidence

As will be developed further, the State established jurisdiction over Respondent. However, despite actual notice of the proceeding, Respondent chose not to appear in person or by counsel. Respondent was eventually found to be in default. As part of the default proceeding, the Administrative Law Judge received exhibits in Evidence. A list of the documents which were received in evidence is attached hereto as Appendix Two.

The Administrative Law Judge hereby rules that all the exhibits are officially received in evidence and are part of the record herein. In addition to the exhibits offered by Petitioner, the Administrative Law Judge sent two letters to the parties. A letter from the Administrative Law Judge to the parties dated May 15, 2000 is hereby received in evidence as ALJ Exhibit 101. A second letter dated May 16, addressed to the parties, is hereby received as ALJ Exhibit 102. A letter from Mr. Lynch to the Administrative Law Judge (cc to Respondent), requesting a default judgment and carrying a list of the proposed exhibits is hereby received as ALJ Exhibit 103.

While each of the documents listed in the exhibit list attached to this decision is part of the record of this proceeding, the Committee was required to base its decision on Exhibit 1 and Exhibit 13 only. The basis

for this procedure is as follows: Respondent was found to be in default. Upon such a finding, the allegations in the Statement of Charges became findings of fact, admitted by Respondent. A Committee of the Board for Professional Medical Conduct must base its findings and conclusions solely upon the facts presented in the proceeding. Therefore, the Committee was limited to the assertions in the Statement of Charges because the allegations in the Statement of Charges were the only facts in the proceeding.

In deference to the need by the Committee for a context in which to mete out a penalty, Exhibit 13, a report by investigators for the Board, was also submitted to the Committee. The Committee was instructed that they could not base their finding of guilt or innocence upon Exhibit 13 but the information could be used to establish a penalty. Respondent was sent a copy of the cover letter sent to the Committee. Respondent was also sent a copy of each of the exhibits.

PART TWO: The State Establishes Jurisdiction over Respondent

Pursuant to Part 230 (10) (d) of the Public Health Law, Petitioner must obtain personal service upon Respondent in order to establish jurisdiction over him. However, jurisdiction can also be established where the Notice of Hearing and Statement of Charges is sent to Respondent by registered or certified mail. However, Service by mail is available only where personal service cannot be obtained after due diligence. The due diligence must be certified under oath. The address to which the documents must be mailed, is the "last known address by the board (sic)." (Public Health Law Part 230(10)(d))

In this case, Petitioner obtained jurisdiction through service by mail (see Exhibit 2 in evidence). Exhibit 2 establishes that Petitioner made a number of efforts to serve Respondent personally. The Notice of Hearing and Statement of Charges were sent by mail because each of the various attempts at personal service were unsuccessful. Diligent efforts to serve Respondent personally were documented under oath. As other addresses at which Respondent might be found were discovered, Petitioner made several additional attempts at personal service and service by mail. However, despite diligent efforts by Petitioner, it was not possible to obtain personal service upon Respondent.

On May 17, 2000, Respondent, counsel for Petitioner and the Administrative Law Judge participated in a conference telephonic call. Respondent acknowledged actual notice of this proceeding during this phone conversation. Respondent also stated unequivocally he would not travel to New York to contest the charges.

After the Administrative Law Judge exited the telephone conversation, a settlement between Respondent and Petitioner was agreed upon. Petitioner notified the Administrative Law Judge of the proposed settlement and sent a copy of the settlement documents to a specific address provided by Respondent. To date, despite repeated conversations between Respondent and Petitioner, as well as additional telephone conversations with the Administrative Law Judge, the settlement documents have not been executed and returned by Respondent in the pre-paid envelope provided by Petitioner.

PART THREE: Respondent is Found in Default

As stated previously, on May 17, 2000 the Administrative Law Judge initiated a conference call with counsel for Petitioner and Respondent. Respondent stated he would not travel to New York to defend this matter. He acknowledged receipt of the Statement of Charges, Summary Order and the Notice of Hearing. Respondent provided an address at *Love Lifted Me Ministries* in Los Angeles California as his current mailing address. Respondent was given a pager number with which he could reach the Administrative Law Judge. After conferring with counsel for the State, the parties came to a settlement agreement. Counsel for the State agreed to send Respondent a consent agreement. Respondent was granted an adjournment by the Administrative Law Judge contingent upon his cooperation in executing the agreed upon settlement. The consent agreement was sent out by UPS the afternoon of May 17.

On May 22, Respondent paged the Administrative Law judge at about 5:30 p.m. The Administrative Law Judge returned the page by telephone. During the telephone conversation, Respondent reported that he had not yet received the stipulation form and wanted confirmation that his adjournment was still granted. The Administrative Law Judge contacted counsel for Petitioner (it was not possible at that time to initiate a three way conversation). It was discovered that two attempts had been made to deliver the documents to the address given by Respondent. Respondent was instructed to contact counsel for the State for the tracking number so

he could communicate with UPS. Eventually, on May 24, the stipulation document was delivered to Respondent.

On June 5, counsel for the State called Respondent at the telephone number provided by Respondent. A message, stating Counsel had not yet received the executed settlement, was left for Respondent along with a toll free telephone number.

As of June 8, counsel for the State had still not received the executed settlement agreement. Counsel for the State wrote to Respondent informing him that a default judgment would be sought since Respondent had failed to return the stipulation agreement. There has been no further communication from Respondent to this day.

Part 230 (10)(c)(3) of the Public Health Law provides that "the licensee shall appear personally at the hearing and may be represented by counsel (emphasis supplied)." Respondent has filed no answer and he has not appeared personally in this proceeding. He was granted an adjournment to provide time to fully execute a settlement. However, by his lack of cooperation, Respondent has violated the terms of the adjournment. Respondent has ignored the rulings of the Administrative Law Judge and the statutory provisions of the Public Health Law. Therefore, the Administrative Law Judge rules that Respondent is in default. Hence, the charges and specifications are admitted by Respondent with the same force and effect as if the charges and specifications had been sustained by the Committee after an evidentiary hearing.

The Administrative Law Judge conferred with the members of the Committee and disclosed to them the facts stated above. The Committee was told that the Administrative Law Judge ruled that upon the failure of Respondent to appropriately participate in the proceedings, each of the Specifications in the Notice of Hearing and Statement of Charges (see Exhibit 1) were deemed admitted by Respondent with the same force and effect as if the Committee had made the findings after an evidentiary hearing. Likewise, all statements of fact and

the charges themselves, which were alleged in the Statement of Charges (Exhibit 1), were admitted by Respondent with the same force and effect as if the Committee had made the findings after an evidentiary hearing.

The Committee deliberated on the issue of imminent danger and on the issue of professional misconduct under Section 6530 of the New York Education Law. The Committee has considered the entire record in the above captioned matter and hereby renders its decision with regard to the issue of imminent danger and the charges of medical misconduct.

FINDINGS OF FACT

1. Respondent, was authorized to practice medicine in New York State as part of an authorized residency program pursuant to N.Y. Education Law §6526(1) between approximately June 26, 1998 and June 26, 1999, at Mary Imogene Bassett Hospital (hereafter Bassett Hospital), Atwell Road, Cooperstown, New York.
2. Respondent obtained his medical degree from the Medical College of Virginia in approximately June 1996.
3. In approximately 1996, Respondent abused alcohol and/or drugs, in that he was convicted of D.U.I. in Richmond, Virginia on one occasion, and in the Outer Banks of North Carolina on a second occasion.
4. In approximately July 1996, Respondent was hospitalized in Virginia for alcohol withdrawal.
5. In approximately July 1996, Respondent failed to commence a residency program at the University of Tennessee, Memphis, that he had been scheduled to begin in the specialty of radiology.
6. In approximately July 1997, Respondent withdrew from a surgical residency program at the University of California after attending for one week.

7. In approximately June 1998, Respondent failed to disclose his history of alcohol abuse or that he was being prescribed medication to treat anxiety when having an employee physical performed at the time he commenced a residency program at Bassett Hospital.
8. Respondent stopped taking his prescribed medication in approximately September 1998, consumed alcohol, and was hospitalized for detoxification at Conifer Park in Scotia, New York for approximately one week.
9. On approximately April 21, 1999, Respondent was granted a medical leave from the residency program at Bassett Hospital.
10. On approximately May 5, 1999, after having been arrested for unauthorized use of a motor vehicle, Respondent was admitted to A.O. Fox Memorial Hospital for psychiatric evaluation, and he was transferred to Binghamton State Psychiatric Center where he was hospitalized.
11. On approximately June 26, 1999, Respondent was terminated from the residency program at Bassett Hospital.
12. In approximately August 1999, Respondent went to the Emergency Department at Columbia Presbyterian Hospital when he experienced a panic attack, and he was admitted to North General Hospital for psychiatric care.

CONCLUSIONS
WITH REGARD TO
FACTUAL ALLEGATIONS

Pursuant to the instructions of the Administrative Law Judge, the Committee finds that the factual allegations are sustained with the same force and effect as if a full evidentiary hearing had been held and the Committee had deliberated after same.

Therefore:

EACH Factual Allegation IS SUSTAINED

CONCLUSIONS
WITH REGARD TO
THE FIRST SPECIFICATION

**(HABITUAL ABUSE OF ALCOHOL AND/OR ABILITY TO PRACTICE
MEDICINE IMPAIRED BY PSYCHIATRIC CONDITION)**

Respondent is charged with one specification of professional misconduct. He is alleged to have violated N.Y. Educ: Law section 6530(8). Under this provision, professional misconduct is established when a physician practices while a habitual abuser of alcohol or suffers from a psychiatric condition which impairs his ability to practice medicine. Petitioner charges that the facts above establish such misconduct.

The Committee was instructed that upon having been found in default, the specifications were admitted by Respondent and hence were sustained with the same force and effect as if a full evidentiary hearing had been held and the Committee had deliberated after same. However, the Committee finds that regardless of the admissions by Respondent, the facts presented would satisfy the definition of the professional misconduct alleged. Therefore, the Committee sustains each of the specifications.

Therefore:

The First Specification is SUSTAINED;

CONCLUSIONS
WITH REGARD
TO
THE SUMMARY ORDER
AND
FINAL PENALTY

Respondent was given every reasonable opportunity to participate in this proceeding. He has demonstrated that he had actual knowledge of the charges against him. Nevertheless, Respondent has chosen not to participate appropriately in the hearing. The very fact that Respondent has not made an appropriate appearance before this Committee is significant in and of itself. Respondent is charged with practicing medicine while in a state of substance induced or psychiatric impairment. Failing to appropriately participate in a

proceeding in which one could lose one's license to practice medicine is behavior not inconsistent with someone who is impaired by substance abuse or mental disorder. Even if Respondent could not afford counsel or is residing too far away to participate in New York, the Committee expects that a physician in possession of all his faculties would have appropriately participated in the proceeding. Hence, the very fact Respondent has been found in default supports the charges against him.

The Trier of Fact is aware that Respondent has the right to remain silent during a proceeding. Therefore, his silence, in and of itself, cannot and does not form the basis for a finding of culpability in this proceeding. Had Respondent made an actual appearance, he would nevertheless have been free to remain mute. However, in this case Respondent has not chosen to remain silent, rather, he has chosen to fail to appropriately respond to these proceedings. Sitting mute is a right. Failing to answer questions is also a right. However, a failure to respond appropriately to the entire proceeding can, and will, have significant consequences.

The Trier of Fact finds that each of the incidents alleged by Petitioner are significant and had the potential to place patients in real danger of serious harm. Hence, any one of the charges would warrant a significant penalty even if each incident stood alone as a single charge. The pattern of behavior and the complete absence of any evidence suggesting that rehabilitation is possible, convinces the Trier of Fact that only the most stringent penalty is appropriate in this proceeding.

It is noted that the length of time over which the incidents were documented supports a finding that Respondent was not suffering from some momentary lapse caused by over-indulgence or a temporary disorder. Rather, the totality of the facts and circumstances over the time period herein, leads the Trier of Fact to find Respondent was, and probably continues to be, seriously impaired. It follows that Respondent should not be allowed to practice medicine.

The Commissioner has found, by virtue of her May 10 Order, that Respondent presents an imminent danger to the people of this state. Given the pattern established by the various incidents admitted by Respondent, the Committee finds the May 10 Order was entirely appropriate. The fact is that Respondent is not presently in a position to practice medicine in New York State. However he has the ability to enter a

program of medical practice were he to travel to New York. Such a situation would be utterly intolerable. Therefore, the Committee finds unanimously that the Summary Order should continue in full force and effect and that Respondent should be banned from the practice of medicine in this state.

ORDER

WHEREFORE, Based upon the foregoing facts and conclusions,

It is hereby **ORDERED** that:

1. The Factual allegations in the Statement of Charges (attached to this Decision and Order as Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

3. The **SUMMARY ORDER** issued by the Commissioner on May 10, 2000 , (attached to this Decision and Order as Appendix Two) **SHALL BE AFFIRMED WITHOUT MODIFICATION**;

Furthermore, it is hereby **ORDERED** that;

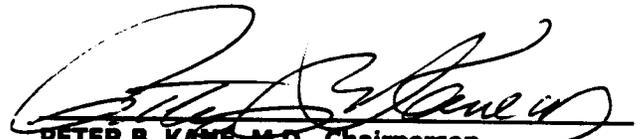
4. Respondent is **BANNED** from the practice medicine in the State of New York ;

Furthermore, it is hereby **ORDERED** that;

5. This order shall take effect **UPON RECEIPT** or **SEVEN (7) DAYS** after mailing of this order by Certified Mail.

DATED: Syracuse, New York

Aug 17, 2000



PETER B. KANE, M.D., Chairperson

WALTER T. GILSDORF, M.D.

MS. CLAUDIA GABRIEL

To:

WILLIAM J. LYNCH, ESQ.
Senior Attorney
Bureau of Professional Medical Conduct
Empire State Plaza
Corning Tower - Room 2509
Albany, New York 12237

JAMES MARK STRICKLAND, M.D.
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Love Lifted Me Ministry
6510 Crenshaw Blvd,
Los Angeles, CA 90043

APPENDIX ONE

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

-----X

IN THE MATTER : STATEMENT
OF : OF
JAMES MARK STRICKLAND, M.D. : CHARGES

-----X

James Mark Strickland, M.D., the Respondent, was authorized to practice medicine in New York State as part of an authorized residency program pursuant to N.Y. Education Law §6526(1) between approximately June 26, 1998 and June 26, 1999, at Mary Imogene Bassett Hospital (hereafter Bassett Hospital), Atwell Road, Cooperstown, New York.

FACTUAL ALLEGATIONS

1. Respondent obtained his medical degree from the Medical College of Virginia in approximately June 1996.
2. In approximately 1996, Respondent abused alcohol and/or drugs, in that he was convicted of D.U.I. in Richmond, Virginia on one occasion, and in the Outer Banks of North Carolina on a second occasion.
3. In approximately July 1996, Respondent was hospitalized in Virginia for alcohol withdrawal.

4. In approximately July 1996, Respondent failed to commence a residency program at the University of Tennessee, Memphis, that he had been scheduled to begin in the specialty of radiology.
5. In approximately July 1997, Respondent withdrew from a surgical residency program at the University of California after attending for one week.
6. In approximately June 1998, Respondent failed to disclose his history of alcohol abuse or that he was being prescribed medication to treat anxiety when having an employee physical performed at the time he commenced a residency program at Bassett Hospital.
7. Respondent stopped taking his prescribed medication in approximately September 1998, consumed alcohol, and was hospitalized for detoxification at Conifer Park in Scotia, New York for approximately one week.
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10. On approximately June 26, 1999, Respondent was terminated from the residency program at Bassett Hospital.
11. In approximately August 1999, Respondent went to the Emergency Department at Columbia Presbyterian Hospital when he experienced a panic attack, and he was admitted to North General Hospital for psychiatric care.

SPECIFICATIONS

FIRST SPECIFICATION

HABITUAL ABUSE OF ALCOHOL AND/OR ABILITY TO PRACTICE
MEDICINE IMPAIRED BY PSYCHIATRIC CONDITION

Respondent is charged with professional misconduct under N.Y. Educ. Law section 6530(8) by reason of his habitual abuse of alcohol and/or psychiatric condition which impairs his ability to practice in that Petitioner charges the facts in paragraphs 1 and 2, and/or 3, and/or 4, and/or 5, and/or 6, and/or 7, and/or 8, and/or 9, and/or 10 and/or 11.

DATED:

Albany, New York

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

APPENDIX TWO

MATTER OF JAMES MARK STRICKLAND, M.D.

PETITIONER'S EXHIBIT LIST

- Exhibit 1. Notice of Hearing with Statement of Charges.
- Exhibit 2. Affidavit of service.
- Exhibit 3. Certified Copy of Credentialing and Resident Program File.
- Exhibit 4. Certified copy of the Bassett Healthcare medical record for Respondent.
- Exhibit 5. Certified copy of Stephen Hudyncia, M.D.'s medical record for Respondent.
- Exhibit 6. Certified copy of Stuart Thomson, M.D.'s medical record for Respondent.
- Exhibit 7. Certified copy of the A.O. Fox medical record for Respondent.
- Exhibit 8. Certified copy of Marvin Denburg, Ph.D.'s medical record for Respondent.
- Exhibit 9. Memorandum of Investigation and certified copy of the CVS pharmacy prescription list for Respondent.
- Exhibit 10. Certified copy of the Gregory Xanthaky's medical record for Respondent.
- Exhibit 11. Copy of Columbia Presbyterian's medical record for Respondent.
- Exhibit 12. Certified copy of the North General Hospital medical record for Respondent.
- Exhibit 13. Investigative Report of the Office of Professional Medical Conduct.