



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

August 19, 1994

8/19/94

AUG 19 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ross Frederick Grumet, M.D.
340 Boulevard, N.E.
Suite 640
Atlanta, GA 30312

Ann Hroncich, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001

Not Appealed
Effective Date: 8/26/94

RE: In the Matter of Ross Frederick Grumet, M.D.

Dear Dr. Grumet and Ms. Hroncich :

Enclosed please find the Determination and Order (No. 94-159) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

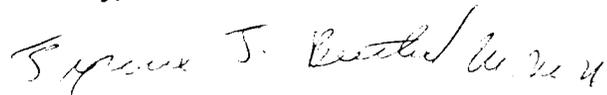
The notice of review served on the Administrative Review Board should be forwarded to:

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,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mmn

Enclosure

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

IN THE MATTER
-OF-
ROSS FREDERICK GRUMET, M.D.

DECISION
AND
ORDER
OF THE
HEARING COMMITTEE

BPMC ORDER NO. 94-159

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated June 29, 1994, which were served upon **ROSS FREDERICK GRUMET, M.D.** (hereinafter referred to as "Respondent"). **S. MOUCHLY SMALL, M.D., Chairperson, F. MICHAEL JACOBIOUS, M.D., and MS. OLIVE JACOB**, 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. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on August 11, 1994 at the offices of the New York State Department of Health, 5 Penn Plaza, New York, New York. The State Board For Professional Medical Conduct appeared by **ANN HRONCICH, ESQ.**, Associate Counsel, Bureau of Professional Medical Conduct. Respondent neither appeared in person nor by counsel. Evidence was received. A transcript of these proceedings was made.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing 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 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 Section 6530 (9)(d). The charge arises from a consent order issued by the Composite State Board of Medical Examiners of the State of Georgia. The Consent Order was based upon allegations of misuse of controlled substances by Respondent. A Copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Decision and Order in Appendix I.

SIGNIFICANT LEGAL RULINGS

The Administrative Law Judge found that the State had made service upon Respondent pursuant to statute and that therefore, jurisdiction of Respondent had been established.

FINDINGS OF FACT

The Committee adopts the factual statement set forth on page one through three of the Statement of Charges (Appendix I) as its findings of fact and incorporates them herein. The Committee adds the fact that Respondent is not presently registered in the state of New York.

CONCLUSIONS

Respondent has elected not to contest the charges herein. The allegations are uncontroverted. Upon review of the of the documentation received in evidence, the Committee

finds that Respondent entered into a Consent Order with the State of Georgia after being charged with misuse of controlled substances. The grounds upon which the Georgia charges are based would constitute misconduct in New York state. The Committee can see no basis for leniency. Revocation is the only appropriate penalty under the circumstances.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The Factual allegations in the Statement of Charges are **SUSTAINED**.

Furthermore, it is hereby ordered that;

2. The Specification of Misconduct contained within the Statement of Charges (Appendix I) is **SUSTAINED**;

Furthermore, it is hereby ordered that;

3. Respondent 's license to practice medicine in the state of New ork is **REVOKED**

Dated: Buffalo, New York:

August 16, 1994

S. Mouchly Small M.D.
S. MOUCHLY SMALL, M.D., Chairperson

F. MICHAEL JACOBUS, M.D.
MS. OLIVE JACOB

TO:

ANN HRONCICH, ESQ.
Associate Counsel, Bureau of Professional Medical Conduct
New ork State Department of Health
5 Penn Plaza
New ork, New ork 10001

ROSS FREDERICK GRUMET, M.D.
340 Boulevard, N. E.
Suite 640
Atlanta, GA. 30312

APPENDIX I

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: ROSS FREDERICK GRUMET, M.D. : PROCEEDING
: :
-----X

TO: ROSS FREDERICK GRUMET, M.D.
340 Boulevard, N.E.
Suite 640
Atlanta, GA 30312

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 11th day of August, 1994, at 10:00 o'clock in the forenoon of that day at 5 Penn Plaza, 6th 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, 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 July 29, 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 July 29, 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: New York, New York

June 29, 1994



Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Ann Hroncich
Associate Counsel
212-613-2615

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

-----X
IN THE MATTER : STATEMENT
OF : OF
ROSS FREDERICK GRUMET, M.D. : CHARGES
-----X

ROSS FREDERICK GRUMET, M.D., the Respondent, was authorized to practice medicine in New York State on October 10, 1961, by the issuance of license number 085876, by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FIRST SPECIFICATION

**HAVING HAD DISCIPLINARY
ACTION TAKEN AGAINST HIM
BY ANOTHER STATE**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(d) (McKinney Supp. 1994), in that he has had disciplinary action taken against him by a duly authorized professional disciplinary agency of another state based upon conduct which would constitute

misconduct as defined by N.Y. Educ. Law Sec. 6530(2), (3), (16), (20) and/or (32) (McKinney Supp. 1994), specifically:

On or about August 31, 1993, in a Consent Order, Respondent agreed that the Composite State Board of Medical Examiners of the State of Georgia (the "Board") may enter an Order based upon the allegations against him. The allegations against him were that he inappropriately prescribed, administered or dispensed more than one of the following controlled substances to seven different patients, in excessive quantities and/or for excessive periods of time, during the time period from June 1986 to January 1993: Nubain, Valium, Ativan, Tylox, Desyrel, Promethazine, Demerol, Prosom, Dalmane, Percodan, Buspar, Soma, Dilaudid, Xanax, Restoril, Buprenex, Tranxene, Tegretol, Halcion, Percocet, Methadone, Parafon Forte, Lortab, Talacen, Vicodin, Lorcet plus, and Lortab 7.5.

On or about October 6, 1993, the Board found that Respondent's conduct, if proven, constituted sufficient grounds for disciplinary action under O.C.G.A. Chs. 1 and 34, T. 43, as amended. The Board ordered that Respondent's license be placed on probation for a period of four (4) years subject to the following (as well as other) conditions: (1) Respondent shall attend and successfully complete the Mini-Residency in the Proper Prescribing of Controlled Dangerous Substances Program of the University of Medicine and Dentistry of New Jersey within one year of the effective date of the Consent Order, and to submit documentation of successful completion to the Board. (2) In addition to the continuing education required under O.C.G.A. Section 43-34-3, Respondent shall submit to the Board for its approval a program of continuing education acceptable to the Board a total of 40 hours to be completed during the second, third, and fourth years of the probationary period, 25 hours of which shall be related to the areas of pharmacology, prescribing drugs or the management of patients with chronic pain. (3) Respondent shall utilize a triplicate prescription system for all controlled substances, as defined by the federal

or Georgia Controlled Substances Act, prescribed or dispensed by him, and he shall personally maintain on a daily basis an accurate and separate log of all controlled substances, as defined by the federal or Georgia Controlled Substances Act, prescribed, administered, or dispensed in his office. (4) Respondent shall not utilize a physician's assistant in his practice to perform tasks which are otherwise prohibited by the terms of the Consent Order. (5) Respondent shall be under the supervision of another physician who shall submit quarterly reports regarding Respondent's performance. (6) A Medical Coordinator or another representative of the Board may periodically review and inspect Respondent's records and/or meet with Respondent to personally interview him.

DATED: NEW YORK, NEW YORK

June 29, 1994



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct