



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

December 23, 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Terrence Sheehan, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

Norman Canter, M.D.
920 Redding Road
Fairfield, Connecticut 06430

RE: In the Matter of Norman Canter, M.D.

Dear Mr. Sheehan and Dr. Canter:

Enclosed please find the Determination and Order (No. BPMC-92-120) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 than 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 (p), 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.

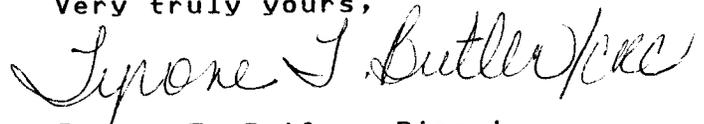
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Corning Tower - Room 2503
Empire State Plaza
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.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

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

-----X
IN THE MATTER : DETERMINATION
OF : AND
NORMAN CANTER, M.D. : ORDER
-----X ORDER NO. BPMC-92-120

A Notice of Hearing and Statement of Charges, both dated March 25, 1992, were served upon the Respondent, Norman Canter, M.D. **THEA GRAVES PELLMAN (Chair), ROBERT J. O'CONNOR, M.D., and EDWARD C. ZAINO, 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, ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. A hearing was held on October 1, 1992. The Department of Health appeared by Terrence J. Sheehan, Esq., Associate Counsel. The Respondent appeared pro se. 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 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)(b). 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. Norman M. Canter, M.D. (hereinafter "Respondent"), was authorized to practice medicine in New York State on September 4, 1957 by the issuance of license number 79728 by the New York State Education Department. Respondent is currently registered with the New York State Education to practice medicine for the period January 1, 1991 to December 31, 1992 at 920 Redding Road, Fairfield, Connecticut 06430. (NOT CONTESTED).

2. On or about January 15, 1991, the Connecticut Medical Examining Board, after a formal hearing, found that Respondent suffered from an emotional disorder or mental illness which impaired his ability to practice medicine with reasonable skill or safety. The Board found that Respondent had suffered since on or about 1982, and continued to suffer from a bipolar disorder with an acute paranoid reaction. The condition is incurable and manifested itself during surgery on April 12, 1990, when Respondent suddenly kissed a nurse, acted agitated, threw instruments around the operating room and needlessly excised a patient's bladder and prostate, leading to the patient's death. (Pet. EX. #2).

3. The Connecticut Medical Examining Board placed Respondent on indefinite probation and prohibited him from performing any type of surgery, writing prescriptions for himself, and ordering laboratory testing for himself. (Pet. Ex. #2).

4. Respondent has been employed as a consultant by a New York law firm for approximately eighteen months. He reviews medical records to determine whether or not the patients were harmed due to medical malpractice. He also assists the attorneys in obtaining suitable expert testimony. (21-22, 50).

5. Respondent testified that he does not practice medicine in New York and that he has no present plans to engage in the active practice of medicine. (50-53).

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. The preponderance of the evidence demonstrates that the Connecticut Medical Examining Board found, after a formal hearing, that Respondent did practice medicine while impaired due to his psychiatric disorder. His conduct would have constituted professional misconduct as defined by Education Law Sections 6530(7) and (8), had it occurred in New York State. Consequently, the Hearing Committee voted to sustain the specification of professional misconduct contained 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 medical license and registration should be suspended for a period of two years from the effective date of this Determination and Order. The Committee further determined that the suspension should be stayed, with Respondent placed on probation for two years. The complete terms of probation are attached to this Determination and Order in Appendix II. 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 record clearly established that Respondent's misconduct was caused by a psychiatric disorder, for which he remains under treatment. He does not currently practice medicine, nor does he plan to do so in the future. Nevertheless, his ability to serve as a medical consultant to law firms on medical issues does hinge, at least in part, on his maintenance of a New York medical license. (See, Tr. pp. 53, 55).

The Department asserted, and the Hearing Committee agrees, that it is not necessary to revoke Respondent's New York license, in order to protect the public. Respondent presents little risk of harm to patients or himself so long as he remains in therapy, refrains from performing surgery of any type, and refrains from writing prescriptions or laboratory test orders for himself. These requirements, have been incorporated into the terms of probation contained in Appendix II. It was the unanimous opinion of the Hearing Committee that this sanction strikes the appropriate balance between the need to protect the public and preserve Respondent's ability to practice his profession and earn a living.

ORDER

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

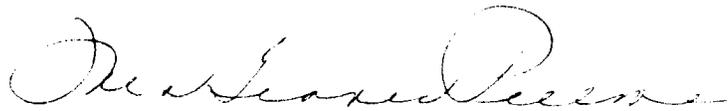
1. The Specification of professional misconduct contained in the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED**;

2. Respondent's registration and license to practice medicine in New York State are **SUSPENDED** for a period of two (2) years from the effective date of this Determination and Order. The suspension is **STAYED** and Respondent shall be placed on probation for two (2) years in accordance with the terms of probation contained in Appendix II, which is attached to this Determination and Order and incorporated herein;

3. In the event that the Connecticut Medical Examining Board alters the sanctions which it has imposed upon Respondent, he may immediately petition the New York State Board for Professional Medical Conduct for reconsideration of the sanctions imposed herein.

DATED: Albany, New York

Nov. 22, 1992



THEA GRAVES PELIMAN (Chair)

Robert J. O'Connor, M.D.

Edward C. Zaino, M.D.

TO: Terrence Sheehan, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Norman Canter, M.D.
920 Redding Road
Fairfield, Connecticut 06430

APPENDIX I

Pet. Ex. 1 - evid
JPZ 10/1/92

NYS DEPT. OF HEALTH
DIVISION OF LEGAL AFFAIRS
PROFESSIONAL MEDICAL CONDUCT

SEP 19 1992

RECEIVED

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

-----X	:	
	:	NOTICE OF
IN THE MATTER	:	
	:	REFERRAL
OF	:	
	:	PROCEEDING
NORMAN M. CANTER, M.D.	:	
-----X	:	

TO: NORMAN M. CANTER, M.D.
920 Redding Road
Fairfield, CT 06430

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. 1992, as amended by ch 37, Laws of 1992) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 1st day of October, 1992 at 11:00 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 Larry Storch, Administrative Law Judge, New York State Department of Health, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, as well as the Department of Health attorney indicated below, on or before ~~April 16, 1992~~ 10/1/92

You may file a written answer, brief, and affidavits with the Committee. Seven copies of all papers you wish to submit must be filed with Judge Storch at the address indicated above on or before ~~April 16, 1992~~ 10/1/92 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 Judge Storch 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
March 25, 1992



Chris Stern Hyman, Counsel
Bureau of Professional Medical
Conduct

Inquiries should be addressed to:
Terrence Sheehan
Associate Counsel
(212) 613-2601

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

-----X

IN THE MATTER : STATEMENT
OF : OF
NORMAN M. CANTER, M.D. : CHARGES

-----X

NORMAN M. CANTER, M.D., the Respondent, was authorized to practice medicine in New York State on September 4, 1957 by the issuance of license number 79728 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 to December 31, 1992 at 920 Redding Road, Fairfield, CT, 06430.

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(b) (McKinney Supp. 1992) in that he was 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 findings were based would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law Section 6530(7) and (8) (McKinney Supp. 1992). Specifically, Petitioner alleges:

On or about January 15, 1991 the Connecticut Medical Examining Board, after a formal hearing, found that Respondent suffered from an emotional disorder or mental illness which impaired his ability to practice medicine with reasonable skill or safety. The Board found that Respondent had suffered for the last eight years and continued to suffer from a "major psychiatric disorder" called "bipolar disorder with an acute paranoid reaction". The condition is incurable and manifested itself during surgery on April 12, 1990, when Respondent suddenly kissed a nurse, acted agitated, threw instruments around the operating room and needlessly excised a patient's bladder and prostate, leading to the patient's death.

The Connecticut Board placed Respondent on indefinite probation and prohibited him from performing any type of surgery and writing prescriptions for himself.

DATED: New York, New York
March 23rd, 1992

A handwritten signature in black ink, appearing to read "Chris Stern Hyman", written over a horizontal line.

CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

APPENDIX II

APPENDIX II
TERMS OF PROBATION

1. Dr. Canter shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.

2. Dr. Canter shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.

3. Dr. Canter shall submit prompt written notification to the Board addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237, regarding any change in employment, practice, residence or telephone number, within or without New York State.

4. In the event that Dr. Canter leaves New York to reside or practice outside the State, Dr. Canter shall notify the Director of the Office of Professional Medical Conduct in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.

5. Dr. Canter shall have quarterly meetings with an employee or designee of the Office of Professional Medical Conduct during the period of probation. During these quarterly meetings Dr. Canter's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.

6. Dr. Canter shall not perform surgery of any type. In addition, Dr. Canter shall not

write any prescriptions for his own use, nor shall he order any laboratory tests to be performed on himself.

7. Dr. Canter shall maintain a legible written record of all controlled substances which he prescribes, dispenses or administers. This record shall indicate the name of the patient, the drug prescribed, dispensed or administered, including the amount, strength and directions for use and the date on which the controlled substance was prescribed, dispensed or administered. This written record shall be distinct from, and in addition to, Dr. Canter's medical records for his patients.

8. Dr. Canter shall have quarterly meetings with a monitoring physician who shall review Dr. Canter's practice. This monitoring physician shall review randomly selected medical records and evaluate whether Dr. Canter's medical care comports with generally accepted standards of medical practice. This monitoring physician shall be selected by Dr. Canter and is subject to the approval of the Director of the Office of Professional Medical Conduct. Dr. Canter shall not practice medicine in New York State until an acceptable monitoring physician is approved by the Office of Professional Medical Conduct.

9. Dr. Canter shall undergo treatment with a psychiatrist selected by Dr. Canter, subject to the approval of the Director of the Office of Professional Medical Conduct, with appropriate follow-up by the psychiatrist, as needed. The psychiatrist shall submit quarterly reports to the Director of the Office of Professional Medical Conduct certifying compliance with treatment by Dr. Canter and describing in detail any failure to comply. The psychiatrist shall immediately report to the

Office of Professional Medical Conduct any discontinuation of treatment by Dr. Canter.

10. Dr. Canter shall submit quarterly declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the Office of Professional Medical Conduct at the address indicated above.

11. Dr. Canter shall submit written proof to the Director of the Office of Professional Medical Conduct at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine with the New York State Education Department. If Dr. Canter elects not to practice medicine in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

12. If there is full compliance with every term set forth herein, Dr. Canter may practice as a physician in New York State in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance or any other violation of the terms of probation, a violation of probation proceeding and/or such other proceedings as may be warranted, may be initiated against Dr. Canter pursuant to New York Public Health Law Section 230(19) or any other applicable laws.

13. In the event that the Connecticut Medical Examining Board alters the sanctions which it has imposed upon Dr. Canter, he may immediately petition the New York State Board for Professional Medical Conduct for reconsideration of the sanctions imposed in this Determination and Order or any of the terms of probation imposed herein.