

NOV 24 1998

APPEALS BUREAU DOCKET CLERK  
ALBANY, NEW YORK 12224

REDACTED

*NYC 2/18*

Decided and Entered: november 24, 1998

Case #: 83303

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In the Matter of JAY S.  
SAUNDERS,

Petitioner,

v

ADMINISTRATIVE REVIEW  
BOARD FOR PROFESSIONAL  
MEDICAL CONDUCT,

Respondent.

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DECISION AND ORDER  
ON MOTION

Motion for stay pending determination of review proceeding.

Upon the papers filed in support of the motion and the  
papers filed in opposition thereto, it is

ORDERED that the motion is denied, without costs.

MERCURE, J.P., CREW III, WHITE, YESAWICH JR. and SPAIN, JJ.,  
concur.

ENTER:

REDACTED

Michael J. Novack  
Clerk of the Court



*Supreme Court - Appellate Division  
Third Judicial Department*

Decided and Entered: August 18, 1998

82600

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In the Matter of JAY S.  
SAUNDERS,  
Petitioner,  
v  
STATE BOARD FOR PROFESSIONAL  
MEDICAL CONDUCT,  
Respondent.

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DECISION AND ORDER  
ON MOTION

Motion for stay pending review proceeding.

Cross motion to dismiss petition.

Upon the papers filed in support of the motion and the papers filed in support of the cross motion, it is

ORDERED that the motion is denied, without costs, and it is further

ORDERED that the cross motion is granted, without costs. A proceeding pursuant to CPLR article 78 may be commenced in this court to seek review of "[a]n order of the administrative review board for professional medical conduct or a determination of a committee in which no review by the administrative review board was requested" (Public Health Law § 230-c [5]). By this proceeding, petitioner seeks to have this court annul a Hearing Committee determination with respect to which the Bureau of Professional Medical Conduct has sought review by the Administrative Review Board. Accordingly, this proceeding must be dismissed.

Cardona, P.J., White, Spain, Carpinello and Graffeo, JJ., concur.

ENTER:

REDACTED  
Michael J. Novack  
Clerk of the Court

SUPREME COURT STATE OF NEW YORK  
APPELLATE DIVISION, THIRD DEPARTMENT

-----X

In the Matter of  
the Application  
- of -

JAY STANLEY SAUNDERS, M.D.

Petitioner,

**ORDER TO  
SHOW CAUSE**

- against -

THE ADMINISTRATIVE REVIEW BOARD FOR  
PROFESSIONAL MEDICAL CONDUCT,  
a board under the auspices of the New York State  
Department of Health,

Respondent.

for a judgment pursuant to CPLR Article 78.

-----X

Upon the annexed petition of JAY STANLEY SAUNDERS, M.D., verified on the  
*9<sup>th</sup>* day of October, 1998, the annexed affirmation of WILLIAM L. WOOD, JR., ESQ., affirmed  
on the *8<sup>th</sup>* day of October, 1998, Determination and Order No. ARB 98-107 dated September 23,  
1998, and upon all of the papers and proceedings previously had herein,

Let respondent or its attorneys show cause before the Supreme Court, Appellate  
Division, Third Department, Justice Building, Albany, New York, on the *2* day of *Nov*,  
1998 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard why  
a Judgment and Order should not be entered pursuant to Article 78 of the CPLR and Section  
230-c(5) of the Public Health Law;

(a) staying the Determination and Order of the Administrative Review Board of the

State Board for Professional Medical Conduct No. ARB 98-107 pending the hearing and determination of ~~this motion for a preliminary injunction and staying the said Order pending the hearing and resolution of this Article 78 proceeding;~~

(b) ~~vacating~~ and annulling Determination and Order No. ARB 98-107 issued by respondent, The Administrative Review Board for the State Board for Professional Medical Conduct;

<sup>C</sup>  
(~~d~~) granting such other and further relief which the Court deems just and proper, together with the costs and disbursements of this proceeding ~~on the grounds that said order is arbitrary and capricious, erroneous as a matter of law, an abuse of discretion, in violation of my rights to due process and imposed a penalty that is shocking to the conscience when the severity of the punishment is compared to the gravity of the offense, and it is further;~~

ORDERED, that the Determination and Order of The Administrative Review Board of the State Board for Professional Medical Conduct No. ARB 98-107 is hereby stayed pending the determination of the within motion for a stay ~~and pending the hearing and determination of this Article 78 proceeding;~~ and it is further

ORDERED, that the motion brought on by this Order to Show Cause shall not be orally argued unless counsel are notified to the contrary by the Clerk of the Court.

Sufficient cause appearing therefore, service by personal service or by overnight mail upon the respondent by serving the Division of Legal Affairs, Department of Health, Corning Tower, Albany, and upon Dennis Vacco, Attorney General of the State of New York, 120 Broadway, New York, NY, of this Order and the papers annexed hereto on or before *Oct 15, 1998*

1998 shall be deemed sufficient.

Dated: October 14, 1998

Enter:

(S)

Justice of the Supreme Court  
Appellate Division  
Third Department

REDACTED