



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Public

February 3, 2011

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Michael G. Bass, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237

Thomas Francis Mydosh, M.D.  
1160 Chili Avenue – Suite 102  
Rochester, New York 16424

Thomas Francis Mydosh, M.D.

REDACTED

Michael A. Jones, Jr., Esq.  
Jones & Morris  
10 East Main Street – Suite 304  
Victor, New York 14564

**RE: In the Matter of Thomas Francis Mydosh, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 11-29) 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), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the Respondent or the Department may seek a review of a committee determination.

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,

REDACTED

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:cah

Enclosure

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

COPY

-----X  
IN THE MATTER : DETERMINATION  
: :  
OF : AND  
: :  
THOMAS FRANCIS MYDOSH, M.D. : ORDER  
CO-10-03-1647-A :  
-----X

BPMC #11-29

A Notice of Referral Proceeding and Statement of Charges, both dated November 2, 2010, were served upon the Respondent, Thomas Francis Mydosh, M.D. **LYON M. GREENBERG, M.D. (Chair), WILLIAM A. TEDESCO, M.D., and DAVID F. IRVINE, DHSc, R.P.A.-C,** 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 Michael G. Bass, Esq., Assistant Counsel. The Respondent appeared by Jones & Morris, Michael A. Jones, Jr., Esq., of Counsel. A hearing was held on January 19, 2011. 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)(a)(i), in that Respondent was found guilty of an act constituting a crime under New York State Law. A copy of the 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. Thomas Francis Mydosh, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on December 31, 1987 by the issuance of license number 173340 by the New York State Education Department. (Ex. #4).

2. On or about March 26, 2008, in the Victor Town Court, Ontario County, New York, Respondent was found guilty of Driving While Intoxicated, in violation of New York Vehicle and Traffic Law §1192(2), a misdemeanor. He was sentenced to a \$1,000.00 fine and \$190.00 surcharge. (Exhibit #5).

3. On or about September 10, 2008, Respondent underwent a psychiatric evaluation by Patricia Halligan, M.D. The evaluation was required by Excellus, an insurance plan. Dr. Halligan diagnosed Respondent with Alcohol Abuse, in remission for eight months. She recommended that Respondent return for follow-up visits for the next three to six months. (Exhibit A).

4. Respondent failed to follow-up with Dr. Halligan. Moreover, he stated at the hearing that he had resumed social drinking.

#### 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 evidence established that Respondent was convicted of misdemeanor driving while intoxicated. He freely admitted the conviction at the hearing. By definition, conviction of a crime under New York State law constitutes professional misconduct pursuant to Education Law §6530(9)a)(i). Accordingly, we 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 should receive a censure and reprimand. In addition, Respondent shall be placed on probation for a period of six months. The terms of probation are set forth in Appendix II of this Determination and Order and incorporated herein. The terms of probation shall include a requirement that Respondent return to either Dr. Halligan or another psychiatrist acceptable to the Director of the Office of Professional Medical Conduct, for a full substance abuse evaluation. Respondent shall then be required to follow any treatment recommendations proposed by the evaluator. 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 Committee takes note of the fact that Respondent accepted responsibility for his actions. Nevertheless, there were certain aspects of his testimony which were worrisome. First of all, the evaluation conducted by Dr. Halligan explicitly recommended that Respondent continue to see Dr. Halligan for at least a three to six month period. Respondent failed to follow-up with her, and testified that he was unaware of this recommendation.

Respondent is a solo practitioner, and has no backup coverage. As a result, he testified that he has not taken any vacation time for the past seven years. In addition, he does not have much in the way of recreational outlets. The Committee is concerned that this lack of support systems may place excessive stress upon Respondent. Lastly, we are concerned by the fact that following eight months of sobriety, Respondent admitted that he resumed drinking alcohol, on a "social" basis.

There is no evidence of any patient harm in the record before us, nor any hard evidence of a more established substance abuse problem. As a result, we feel that a six month period of probation, including the follow-up evaluation and treatment requirement, strikes the appropriate balance between the need to sanction Respondent and protect the public.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Exhibit # 1) is SUSTAINED;

2. Respondent is hereby issued a CENSURE AND REPRIMAND.

Respondent's license to practice medicine in New York State shall be and hereby is placed on PROBATION for a period of SIX (6) MONTHS from the effective date of this Determination and Order.

The complete terms of probation are set forth in Appendix II and incorporated herein;

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  
*Feb 1st*, 2011

REDACTED

LYON M. GREENBERG, M.D. (CHAIR)

WILLIAM A. TEDESCO, M.D.

DAVID F. IRVINE, DHSc, R.P.A.-C



TO: Michael G. Bass, Esq.  
Assistant Counsel  
New York State Department of Health  
Corning Tower, Room 2512  
Albany, New York 12237

Thomas Francis Mydosh, M.D.  
1160 Chili Avenue - Suite 102  
Rochester, NY 16424

Thomas Francis Mydosh, M.D.

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Michael A. Jones, Jr., Esq.  
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10 East Main Street - Suite 304  
Victor, NY 14564

APPENDIX I

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

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IN THE MATTER  
OF  
THOMAS FRANCIS MYDOSH, M.D.  
CO-10-03-1647A

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STATEMENT  
OF  
CHARGES

THOMAS FRANCIS MYDOSH, M.D., the Respondent, was authorized to practice medicine in New York state on December 31, 1987, by the issuance of license number 173340 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 26, 2008, in the Victor Town Court, Ontario County, New York, Respondent was found guilty of Driving While Intoxicated, in violation of New York Vehicle and Traffic Law, Section 1192(2), a misdemeanor, and was sentenced, inter alia, to a \$1000 fine and a \$190.00 surcharge.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *November 2*, 2010  
Albany, New York

REDACTED

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

APPENDIX II

## **Terms of Probation**

1. Respondent 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 and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

8. Respondent shall, within thirty (30) days of the effective date of this Determination and Order, obtain an independent psychiatric/chemical dependency evaluation by Patricia Halligan, M.D., or another health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC. Respondent shall bear all expenses of such evaluation.
  
9. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.