



# STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

October 30, 1997

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jude B. Mulvey, Esq.  
NYS Department of Health  
Corning Tower Room 2503  
Empire State Plaza  
Albany, New York 12237

Steven Kimmelman, Esq.  
Pollack & Greene, LLP  
757 Third Avenue  
New York, New York 10017

Stanley Wolfson, M.D.  
200 High Point Drive  
Hartsdale, New York 10530

**RE: In the Matter of Stanley Wolfson, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 97-258) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

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), "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.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** 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.

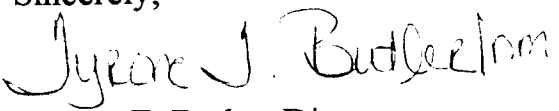
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
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 black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large, prominent initial "T".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

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

**COPY**

**IN THE MATTER  
OF  
STANLEY WOLFSON, M.D.**

**DECISION  
AND  
ORDER  
OF THE  
HEARING  
COMMITTEE**

**ORDER NO.  
BPMC 97-258**

The undersigned Hearing Committee consisting of **MR. IRVING S. CAPLAN, Chairperson, ROBERT A. MENOTTI, M.D.,** and **PAUL J. WEINBAUM, M.D.,** 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) 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 **STANLEY WOLFSON, M.D.** (herein after referred to as "Respondent"). Respondent did not appear. No witnesses were examined. A stenographic record of the hearing was made. Exhibits were received in evidence and made a part of the record.

The Committee has considered the entire record in the above captioned matter and hereby renders its decision with regard to the charges of medical misconduct.

**RECORD OF PROCEEDING**

Notice of Hearing and Statement of Charges:	Dated: July 14, 1997	Served: July 18, 1997
Notice of Hearing returnable:	July 29, 1997	
Location of Hearing:	Hedley Building, Troy, New York	
Respondent's answer:	None	
The State Board for Professional Medical Conduct (hereinafter referred to as "Petitioner" or "The State") appeared by:	<b>JUDE B. MULVEY, Esq.</b> Assistant Counsel Bureau of Professional Medical Conduct Corning Tower Building Room 2503 Albany, New York 12237	
Respondent appeared by:	<b>STEVEN KIMMELMAN, Esq.</b> Pollack & Greene, LLP 757 Third Avenue New York, New York 10017	
Respondent's address:	200 High Point Drive Hartsdale, New York 10530	
Respondent's License:	Number 083182 issued September 14, 1959 Currently registered to October 31, 1998	
Pre-Hearing Conference Held:	August 5, 1997	
Hearings held on:	August 5, 1997	
Conferences held on:	None	
Closing briefs received:	September 17, 1997	
Record closed:	September 17, 1997	
Deliberations held:	October 1, 1997	

## SUMMARY OF PROCEEDINGS

The Statement of Charges in this proceeding alleges three specifications of misconduct. The said charges are based upon a plea of guilty to criminal charges of Medicaid fraud. Respondent has not yet been formally sentenced, therefore under the law of this state, he has not yet been convicted of a crime. Accordingly this matter was conducted as a proceeding under Section 230 (10)(a) of the Public Health Law rather than a direct referral under Section 230 (10)(p).

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

Respondent did not appear in person. Respondent did appear by counsel.

Neither party called any witnesses.

## FINDINGS OF FACT

1. The Committee adopts the factual statements set forth on page one of the Statement of Charges (Appendix One).

## CONCLUSIONS WITH REGARD TO FACTUAL ALLEGATIONS AND PENALTY

The State has established both jurisdiction and the facts alleged. Respondent stipulated to the underlying facts of this proceeding and a plea of guilty entered in open court (See ALJ exhibit 102). The sole pending issue is whether the facts stipulated and those adduced in the record constitute practicing the profession fraudulently, as charged in the First Specification and whether the facts constitute moral unfitness, as charged in the Second Specification.

To establish the two specifications in this matter, the State must show Respondent committed fraud and acted in a manner which evidences moral unfitness, as those terms are applied in proceedings

before the Board. The Committee finds that fraudulent practice is at the heart of the words set forth in Respondent's admissions in his plea. The common English usage of the words in the plea itself support a finding of fraudulent practice. The admissions contained in the plea warrant little further discussion by way of definition. Furthermore, by any reasonable definition of moral unfitness, the intentional theft of over \$50,000 from the Medicaid program, again admitted by Respondent in his plea, is a violation of the public trust placed upon Respondent, solely by virtue of his licensure as a physician in this state and moreover, is a violation of the ethics of the medical community which this Committee represents. Therefore, the Committee finds the State has established, by a preponderance of the evidence, both the first and second specifications herein.

Having sustained the facts and specifications alleged, the Committee now turns its attention to penalty. Respondent argues that he should be allowed to continue to practice medicine for the purpose of restitution and payment of penalties to the State. It is noted that he is presently in a position which does not allow him to bill for his services and that he is in compliance with a plan of restitution under court supervision. By a letter dated August 21, 1997 from the Honorable Phylis Skloot Bamberger, Judge, Court of Claims of the State of New York<sup>1</sup>, the Court indicates Respondent's sentence has been deferred to allow him to continue practice for a period of time for the sole purpose of restitution and payment of penalties and that Respondent is in full compliance. However, at no time has the Court specifically endorsed the continued practice of medicine by Respondent<sup>2</sup>.

The Committee has considered the entire record herein, including, but not limited to Respondent's arguments and the letter from Judge Bamberger. The Committee respectfully takes exception to the plan of the court and has decided to immediately revoke the license of Respondent to practice medicine in this state.

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<sup>1</sup>Under the terms of various agreements between the parties and the Administrative Law Judge, several letters and affidavits were received after the close of the transcribed portion of this proceeding. Each of the written documents received by the Administrative Law Judge, including, but not limited to Judge Bamberger's letter, are part of the record herein. Letters and documents containing legal arguments or objections were not disclosed to the trier of fact but are nevertheless considered part of the record herein.

<sup>2</sup>While the Committee would respectfully consider any such recommendation by the court, it would not be bound by a recommendation by the Court.

In so finding, the Committee is cognizant that Respondent is no longer in a position to submit false billings and that the State benefits from the restitution provided. However, it is the finding of this Committee that appropriate sanction is of far greater importance in this instance than restitution.

The Committee finds that the acts of Respondent are best characterized by the terms greed and unchecked avarice. Respondent offered not the slightest mitigation for his crime. For instance, there were no errant partners to pressure or deceive Respondent; there were no family members that inspired a need for additional funds; moreover, this was not an audit situation that in some measure could be traced back to poor records or advice. What this Committee was presented with was pure selfishness and rapacity.

It is the further finding of this body that the theft of reimbursement funds, here Medicaid monies, goes to the very heart of present day medical practice which is primarily paid for by government and third party payors. By cheating the government of its Medicaid funds, Respondent discredits, in the eyes of the public and his peers, the profession he is a part of. The profession Respondent has acted to besmirch wishes to show, by its representatives in this body, that such activity will in no way be tolerated or condoned.

Perhaps of greater specific importance, the Committee wants to send a clear message that repayment of one's spoils, where one is caught or about to be caught as a thief, is not nearly sufficient to answer the demands of this professional community. The Committee points out that as a physician, one is given great authority and trust, in many areas, including billing. The people of this state, and for that matter, the nation, who fund government benefit programs such as Medicaid have a right to expect practitioners to be fundamentally honest, at least when it comes to billing practices. In the alternative, when a member of this community is found to be cheating that public, the representatives of the community have a duty to mete out the strongest possible punishment, both as a reply to the concerns of the public and as a possible deterrent to others who may consider putting personal gain before professional ethics and the most fundamental ethical standards of civilization. The fact is that one should not need to go to medical school to learn that it is wrong to steal. Where one either misses that lesson or decides to overlook it, the responsibility falls to the rest of the community to express its intolerance in no uncertain terms. It follows that revocation is the only appropriate sanction in this matter.



**ORDER**

WHEREFORE, Based upon the preceding facts and conclusions,

It is hereby **ORDERED** that:

1. The Factual allegations in the Statement of Charges 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 license of Respondent to practice medicine in the State of New York is hereby **REVOKED**;

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

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

Dated: Malone, New York  
10-28, 1997

  
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MR. IRVING S. CAPLAN, Chairperson

ROBERT A. MENOTTI, M.D.  
PAUL J. WEINBAUM, M.D.

**TO:**  
**JUDE B. MULVEY, Esq.**  
Assistant Counsel  
Bureau of Professional Medical Conduct  
Corning Tower Building Room 2503  
Albany, New York 12237

**STEVEN KIMMELMAN, Esq.**  
Pollack & Greene, LLP  
757 Third Avenue  
New York, New York 10017

**STANLEY WOLFSON, M.D.**  
New York, New York 10017  
200 High Point Drive  
Hartsdale, New York 10530

**APPENDIX ONE**

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

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IN THE MATTER : STATEMENT  
OF : OF  
STANLEY WOLFSON, M.D. : CHARGES

-----X

STANLEY WOLFSON, M.D., the Respondent, was authorized to practice medicine in New York State on September 14, 1959 by the issuance of license number 083182 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1996, through October 31, 1998.

**FACTUAL ALLEGATIONS**

1. Respondent, during the approximate period of January 1, 1988 through February 1, 1990, submitted claims for reimbursement from the Medicaid Program which falsely stated that payments were due and owing to Respondent for ultrasound services when such claims were false in that the ultrasound services were neither medically required and/or were not performed and/or those ultrasound services performed were done solely to generate Medicaid billings and not for the benefit of patients and Respondent knew such facts.
2. Respondent's false billings resulted in payments to Respondent of over \$50,000.

FIRST SPECIFICATION

PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with professional misconduct under N.Y. Education Law §6530(2) (McKinney Supp. 1997) by reason of practicing the profession fraudulently or beyond its authorized scope in that Petitioner charges:

1. The facts contained in paragraph 1 and/or 2.

SECOND SPECIFICATION

MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Education Law §6530(20) (McKinney Supp. 1997) by reason of conduct in the practice of medicine which evidences moral unfitness to practice medicine in that Petitioner charges:

2. The facts contained in paragraph 1 and/or 2.

THIRD SPECIFICATION


FILING FALSE REPORTS

Respondent is charged with professional misconduct under N.Y. Education Law §6530(21) (McKinney Supp. 1997) by reason of willfully making and/or filing a false report in that Petitioner

charges:

3. The facts contained in paragraph 1 and/or 2.

DATED: *July 14*, 1997  
Albany, New York

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