



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

September 13, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

James G. Chandler, M.D.
123 Margaret Lane, #C-2
Grass Valley, California, 95945

James G. Chandler, M.D.
17672-B, Cowan Ave.,
Irvine, California 92714

Catherine Cholakis, Esq.
NYS Department of Health
Empire State Plaza
Corning Tower - Room 2438
Albany, New York 12237

Michael A. Hiser, Esq.
NYS Department of Health
Empire State Plaza
Corning Tower - Room 2438
Albany, New York 12237

Effective Date: 9/20/94

RE: In the Matter of James G. Chandler, M.D.

Dear Dr. Chandler, Ms. Cholakis and Mr. Hiser :

Enclosed please find the Determination and Order (No. 94-185) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,

A handwritten signature in cursive script that reads "Tyrone T. Butler / 10/24/97".

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
JAMES G. CHANDLER, M.D.**

**DETERMINATION
AND
ORDER**

ARSENIO G. AGOPOVICH, M.D., (Chair), **ARTHUR J. SEGAL, M.D.** and **MICHAEL J. BROWN, R.P.A.** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10)(e) of the Public Health Law.

MARC P. ZYLBERBERG, ESQ., **ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer.

The Department of Health appeared by **CATHERINE CHOLAKIS, ESQ.**, Assistant Counsel.

JAMES G. CHANDLER, M.D., (hereinafter "Respondent") appeared personally at the hearing on his own behalf and was not represented by counsel.

A hearing was held on August 10, 1994. Evidence was received, a witness was sworn or affirmed and examined. A transcript of the proceedings was made. After consideration of the entire record, the Hearing Committee issues this Determination and Order, pursuant to the Public Health Law and the Education Law of the State of New York.

STATEMENT OF CASE

This case was brought pursuant to §230(10)(p) of the Public Health Law of the State of New York (hereinafter P.H.L. §230[10][p], also known as an "expedited hearing").

The scope of an expedited hearing is strictly limited to evidence or sworn testimony relating to the nature and severity of the penalty to be imposed on the licensee¹ (Respondent).

Respondent, JAMES G. CHANDLER, M.D., is charged with professional misconduct within the meaning of §6530(9)(b) of the Education Law of the State of New York (hereinafter N.Y.S. Education Law), to wit: "professional misconduct ... by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state ..." (Petitioner's Exhibit # 1 and §6530[9][b] of the N.Y.S. Education Law).

Respondent is also charged with professional misconduct within the meaning of §6530(9)(d) of the N.Y.S. Education Law, to wit: "professional misconduct ... by reason of having disciplinary action taken by a duly authorized professional disciplinary agency of another state, for conduct, which conduct, would, if committed in New York State constitute professional misconduct under the Laws of New York State. (Petitioner's Exhibit # 1 and §6530[9][d] of the N.Y.S. Education Law).

In order to find that Respondent committed professional misconduct, the Hearing Committee, pursuant to §6530(9)(b) of the N.Y.S. Education Law, must

¹ P.H.L. §230(10)(p), fifth sentence.

determine: (1) whether Respondent was found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state and (2) whether Respondent's conduct on which the findings were based would, if committed in New York State, constitute professional misconduct under the laws of New York State.

In order to find that Respondent committed professional misconduct, the Hearing Committee, pursuant to §6530(9)(d) of the N.Y.S. Education Law, must determine: (1) whether Respondent had some disciplinary action taken or instituted against him by a duly authorized professional disciplinary agency of another state and (2) whether Respondent's conduct on which the disciplinary action was taken would, if committed in New York State, constitute professional misconduct under the laws of New York State.

A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. These facts represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Unless otherwise noted, all Findings and Conclusions herein were unanimous.

1. Respondent was authorized to practice medicine in New York State on January 11, 1961 by the issuance of license number 084620 by the New York State Education Department. (Petitioner's Exhibit # 1 & Petitioner's Exhibit # 3)²

2. The Respondent is not currently registered with the New York State Education Department. (Petitioner's Exhibit # 1)

3. Amber Hansen personally served a Notice of Referral Proceeding, a Statement of Charges and a summary of Department of Health hearing rules, both dated July 6, 1994, on Respondent on July 18, 1994 at 17672-B, Cowan Ave., Irvine, California. (Petitioner's Exhibit # 2)

4. The Medical Board of California, Division of Medical Quality, of the State of California (hereinafter "California Board") is a state agency charged with regulating the practice of medicine pursuant to the Laws of the State of California. (Petitioner's Exhibit # 4 and Petitioner's Exhibit # 5)

5. On January 24, 1992, the California Board charged, by Accusation³, the Respondent with the commission of separate acts, on 5 separate patients, which constituted either gross negligence, repeated negligence and/or incompetence, under the laws of California. (Petitioner's Exhibit # 4)

² refers to exhibits in evidence submitted by the New York State Department of Health (Petitioner's Exhibit) or by James G. Chandler, M.D. (Respondent's Exhibit)

³ No. D-4673: Before the Medical Board of California, Division of Medical Quality, State of California: In the Matter of the Accusation Against: James G. Chandler, M.D., Physician's and surgeon's Certificate No. A18813, respondent. Accusation dated January 24, 1992 and signed by Kenneth J. Wagstaff, Executive Director, Medical Board of California. (Petitioner's Exhibit # 4)

6. As a result of the January 24, 1992 charges, the California Board, on September 7, 1993 adopted a stipulation⁴ of Respondent and the Attorney General of the State of California. (Petitioner's Exhibit # 4)

7. In the aforementioned Stipulation, Respondent admitted that he was negligent in his treatment of patient H.R., "in that he failed to recognize the deteriorating condition of the patient during surgery. He persisted too long in his attempts to insert the catheter." (Petitioner's Exhibit # 4)

8. In said Stipulation, Respondent also admitted that he was negligent in his treatment of patient G.S., "in that he administered an inappropriate drug, Dilantin, to treat Xylocaine toxicity in this patient; and he failed to recognize the patient's susceptibility to Lidocaine toxicity as a consequence of her known liver disease."

9. Said Stipulation indicates that the facts admitted by Respondent constitute repeated negligent acts in the practice of medicine in violation of California Business and Professions Code section 2234(c)⁵.

10. In the Stipulation, Decision and Order, the California Board took the following action against Respondent:

- A. Respondent's license to practice medicine was revoked; and
- B. Said revocation was stayed; and
- C. Respondent was placed on probation for a period of 5 years; and

⁴ Stipulation, Decision and Order, signed by: Respondent on April 2, 1993, by the Attorney for Respondent on April 6, 1993 and by a Deputy Attorney General, on April 8, 1993. Decision adopting the stipulation, So Ordered September 7, 1993 and to become effective October 8, 1993. (Petitioner's Exhibit # 4)

⁵ §2234. Duty to act; unprofessional conduct; definition. The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following: (c) Repeated negligent acts. (Petitioner's Exhibit # 5)

D. various terms and conditions of probation were imposed.

(Petitioner's Exhibit # 4)

11. In the aforementioned Stipulation, Respondent specifically consented and agreed that his admissions would be deemed true for the purpose of any action taken by or before any governmental body responsible for licensing physicians. (Petitioner's Exhibit # 4)

CONCLUSIONS OF LAW

The Hearing Committee makes the following conclusions, pursuant to the Findings of Fact listed above and the record herein. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee concludes that the following Factual Allegations, from the July 6, 1994 Statement of Charges, are SUSTAINED ⁶:

Paragraph A. : (4 - 8)

Paragraph B. : (6 - 8)

Paragraph C. : (4 - 10)

Paragraph D is not a factual allegations, but requires a conclusion for this Hearing Committee to make, as discussed infra.

⁶ The numbers in parentheses refer to the Findings of Fact previously made herein by the Hearing Committee and support each Factual Allegation.

The Hearing Committee further concludes that the following Specifications of Charges are SUSTAINED ⁷:

FIRST SPECIFICATION: (Paragraph: A - C)

SECOND SPECIFICATION: (Paragraph: A - C)

The Hearing Committee concludes that the Department of Health has shown by a preponderance of the evidence that Respondent was found guilty of improper professional practice by the State of California and his conduct in California would constitute professional misconduct under the laws of New York State. The Department of Health has met its statutory burden of proof.

Service of Charges and of Notice of Hearing.

P.H.L. §230(10)(d) requires that the Charges and Notice of Hearing be served on the licensee personally, at least twenty (20) days before the Hearing. If personal service cannot be made, due diligence must be shown and certified under oath. After due diligence has been certified, then, the Charges and Notice of Hearing must be served by registered or certified mail to the licensee's last known address, at least fifteen (15) days before the Hearing.

From the affidavit submitted, personal service of the Notice of Referral Proceeding and the Statement of Charges on Respondent was proper and timely. In addition, Respondent appeared at the Hearing and had no objection to service of the Statement of Charges and the Notice of Referral Proceeding.

⁷ The citations in parentheses refer to the Factual Allegations which support each Specification.

Professional Misconduct under §6530(9)(b) of the N.Y.S. Education Law.

The Medical Board of California is a duly authorized professional disciplinary agency. In 1993, Said Medical Board adopted Respondent's admissions of repeated negligent acts in the practice of medicine, in violation of California law. Said violations warranted disciplinary action by the California Board. Respondent admitted to two (2) separate acts of negligence. The Hearing Committee finds that Respondent's conduct, by his own admissions, if committed in New York State, would constitute professional misconduct under §6530(3)⁸ of the N.Y.S. Education Law. Therefore, Respondent has committed professional misconduct pursuant to §6530(9)(b) of the N.Y.S. Education Law.

Professional Misconduct under §6530(9)(d) of the N.Y.S. Education Law.

In 1992, the California Board of Medicine, a duly authorized professional disciplinary agency, instituted disciplinary action against Respondent. Based on the record presented, the Hearing Committee determines that Respondent's conduct as set forth in the Accusation, together with the September 7, 1993 Stipulation, Decision and Order of the Medical Board of California, would, if committed in New York State, constitute professional misconduct under the laws of New York State. It is clear that, under the 1993 Stipulation, Decision and Order, Respondent's license to practice medicine was revoked, said revocation being stayed and Respondent was placed on probation. The basis for the California Board's actions, repeated acts of negligence, would, if committed in New York State, constitute professional misconduct under §6530(3) of the N.Y.S. Education Law. Therefore, Respondent has committed professional misconduct pursuant to §6530(9)(d) of the N.Y.S. Education Law.

⁸ Each of the following is professional misconduct... [P]racticing the profession with negligence on more than one occasion, ...

DETERMINATION

The Hearing Committee, pursuant to the Findings of Fact, Conclusions of Law and Discussion set forth above, unanimously determines as follows:

1. Dr. Chandler's license to practice medicine in New York State should be **SUSPENDED** for five (5) years; and
2. Said suspension is **STAYED**; and
3. Respondent shall be placed on probation in New York State for a period of five (5) years from the effective date of this Determination and Order; and
4. Respondent must comply with the terms and conditions of probation contained in Appendix II; and
5. The above five (5) year period of probation shall be extended by the length of residency or practice outside of New York State; and
6. Respondent's probation shall be supervised by the New York State Department of Health, by the Office of Professional Medical Conduct.

This determination is reached after due and careful consideration of the full spectrum of penalties available pursuant to P.H.L. §230-a, including: (1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) the imposition of monetary penalties; (8) a course of education or training; (9) performance of public service and (10) probation.

The record establishes that Respondent committed unprofessional conduct by repeated negligent acts under the laws of California.

The Hearing Committee concludes that if this case had been held in New York, on the facts presented, the negligence alleged and admitted to would have resulted in a finding that Respondent had committed professional misconduct. The acts committed by Respondent places in question his ability to practice medicine with skill and safety to patients.

The Hearing Committee considers Respondent's misconduct to be very serious. With a concern for the health and welfare of patients in New York State, the Hearing Committee determines that stayed suspension and supervised probation under the terms and conditions indicated herein, is the appropriate sanction to impose under the circumstances.


Although the Hearing Committee has reviewed all documents in evidence, it has intentionally given very little weight to Respondent's Exhibits # A (specifically pages 4-15 of the June 22, 1992 [Revised July 18, 1994] letter to Ms. Gail M. Heppell, Esq. from James G. Chandler. M.D. and Attachments 14-52 and 76-77) because those items relate directly to the underlying charges in California and attempt to re-argue the merits of the California disposition. Since the scope of an expedited hearing is strictly limited to evidence or sworn testimony relating to the nature and severity of the penalty, if any, to be imposed on the licensee, the Hearing Committee determines that the aforementioned exhibits are mostly irrelevant in accordance with the legal requirements of P.H.L. §230(10)(p). However, the remainder of Respondent's Exhibit # A and Exhibit # B are found to be relevant in determining the sanction to be imposed on Respondent. The mild penalty given to Respondent is directly related to his credentials and forthright appearance at the Hearing.

ORDER

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

1. The Specifications of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit # 1) are **SUSTAINED**, and
2. Respondent's license to practice medicine in the State of New York is hereby **SUSPENDED for five (5) years**; and
3. The five (5) year suspension is **STAYED**; and
4. Respondent is placed on probation in New York State for a period of five (5) years from the effective date of this Determination and Order; and
5. Respondent must comply with the terms and conditions of probation contained in Appendix II; and
6. The above five (5) year period of probation shall be extended by the length of residency or practice outside of New York State; and
7. Respondent's probation shall be supervised by the Office of Professional Medical Conduct of the New York State Department of Health.

DATED: Albany, New York
September 8, 1994



ARSENIO G. AGOPOVICH, M.D., Chair

ARTHUR J. SEGAL, M.D.
MICHAEL J. BROWN, R.P.A.

To: James G. Chandler, M.D.
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Grass Valley, California, 95945

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A P P E N D I X I

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

-----X

IN THE MATTER : STATEMENT
OF : OF
JAMES G. CHANDLER, M.D. : CHARGES

-----X

JAMES G. CHANDLER, M.D., the Respondent, was authorized to practice medicine in New York State on January 11, 1961, by the issuance of license number 084620 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. He was last registered prior to 1980, the earliest date for which records of registrations have been maintained.

FACTUAL ALLEGATIONS

A. By Accusation dated January 24, 1992, in No. D-4673, the Medical Board of California, Division of Medical Quality, State of California (hereafter, "California Medical Board"), charged Respondent with unprofessional conduct in his treatment of five patients. Respondent was charged with repeated negligent acts in his treatment of these patients, in violation of California Business and Professions Code §§2234(c).

B. By Stipulation, Decision, and Order in No. D-4673 accepted by the California Medical Board effective October 8, 1993, Respondent and the Medical Board of California stipulated to the following:

1. Respondent was negligent in his treatment of patient H.R., in that he failed to recognize the deteriorating condition of the patient during surgery. Respondent also persisted too long in his attempts to insert a Hickman catheter;
2. Respondent was negligent in his treatment of Patient G.S., in that he administered an inappropriate drug, Dilantin, to treat Xylocaine toxicity in the patient; and he failed to recognize the patient's susceptibility to Lidocaine toxicity as a consequence of her known liver disease.

C. Based on the admitted facts, Respondent agreed that the California Medical Board should issue a decision and order revoking Respondent's physicians and surgeons certificate in California, with the revocation being stayed, and Respondent being placed on probation for five years, i.e., until October 8, 1999. Respondent is required to comply with certain terms and conditions during the probationary period, among which is the requirement that Respondent take and pass an oral or written examination in general surgery, that Respondent pursue an approved educational program or course in vascular and thoracic surgery for not less than 40 hours per year for the first three years of probation, that Respondent be prohibited from performing thoracic surgery during the period of probation except in a university hospital setting, and that Respondent undergo a psychiatric evaluation.

D. The conduct upon which the finding of Respondent's improper professional practice or professional misconduct was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically, N.Y. Educ. Law §6530(3) (McKinney Supp. 1994) (practicing the profession with negligence on more than one occasion); 6530(4) (McKinney Supp. 1994) (practicing the profession with gross negligence on a particular occasion); 6530(5) (McKinney Supp. 1994) (practicing the profession with incompetence on more than one occasion); and 6530(6) (McKinney Supp. 1994) (practicing the profession with gross incompetence).

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF IMPROPER PROFESSIONAL PRACTICE OR PROFESSIONAL MISCONDUCT

Respondent is charged with having been 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 finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, within the meaning of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1994), in that Petitioner charges:

1. The facts in paragraphs A, B, C, and/or D.


SECOND SPECIFICATION

HAVING LICENSE TO PRACTICE MEDICINE REVOKED

Respondent is charged with having his license to practice medicine revoked, suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994), in that Petitioner charges:

2. The facts in paragraphs A, B, C, and/or D.

DATED: *July 6*, 1994
Albany, New York


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

A P P E N D I X I I

APPENDIX II

TERMS AND CONDITIONS OF PROBATION

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

3. Dr. Chandler shall submit prompt written notification to the Board addressed to the Director, Office of Professional Medical conduct, (hereinafter "OPMC") 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. Chandler enters or leaves New York to reside or practice inside or outside the State, Dr. Chandler shall notify the Director of the OPMC in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his arrivals or 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. For at least the first six (6) months after re-entry into the active practice of surgery (in New York State), Dr. Chandler is prohibited from performing surgery, except in a University setting and only if supervised by a Board Certified surgeon in the field of surgery specialty being performed.

6. For at least the first six (6) months after re-entry into surgery and/or academia (in New York State), Dr. Chandler may only act as a secondary supervisor in the performance of surgery. Dr. Chandler may act as a primary supervisor only after satisfactory completion of the (6) months trial period as a secondary supervisor.

7. Dr. Chandler shall appear in person for interviews with OPMC personnel, on request, at various intervals after reasonable notice has been given.

8. Dr. Chandler 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 OPMC at the address indicated above.

9. Dr. Chandler shall submit written proof to the Director of the OPMC at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine as a physician with the New York State Education Department. If Dr. Chandler elects not to practice medicine as a physician in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

10. If there is full compliance with every term set forth herein, Dr. Chandler may practice as a physician in New York State in accordance with the terms of probation; provided, however, that on 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. Chandler pursuant to New York Public Health Law §230(19) or any other applicable laws. In the event proceedings are brought, the Department of Health shall have continuing jurisdiction until the matter is final and the period of probation shall be extended until the matter is final.