

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

IN THE MATTER

OF

DAVID SCHWARTZ, M.D.
CO-01-02-0644-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
HEARING

TO: DAVID SCHWARTZ, M.D.
11437 Hollow Timber Court
Reston, VA 20194

DAVID SCHWARTZ, M.D.
5252 Dawes Avenue
Alexander, VA 22311

DAVID SCHWARTZ, M.D.
412 First Street, South East
Washington, DC 20003

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that duly authorized professional disciplinary agencies of other jurisdictions, the Commonwealth of Virginia, Department of Health Professions, Board of Medicine and the Government of the District of Columbia, Department of Health, have made findings substantially equivalent to a finding that the practice of medicine by DAVID SCHWARTZ, M.D., in those jurisdictions constitutes an imminent danger to the health of their people, and DAVID SCHWARTZ, M.D., has been disciplined by a duly authorized professional disciplinary agency of another jurisdiction, the Commonwealth of Virginia, Department of Health Professions, Board of Medicine, for acts which if committed in this state would have constituted the basis for summary action, and that the continued practice of medicine in the State of New York by DAVID

SCHWARTZ, M.D., Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately DAVID SCHWARTZ, M.D., Respondent, shall not practice medicine in the State of New York. This order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Public Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board of Professional Medical Conduct, on the 22nd day of August, 2001 at 10:00 am in the forenoon at Hedley Park Place, 5th Floor, 433 River Street, Troy, New York and at such other adjourned dates, times, and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on her behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180 (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event that any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

**THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO
PRACTICE MEDICINE IN NEW YORK STATE BE
REVOKED OR SUSPENDED, AND/OR THAT
YOU MAY BE FINED OR SUBJECT TO OTHER
SANCTIONS SET FORTH IN NEW YORK PUBLIC
HEALTH LAW SECTION 230-A. YOU ARE
URGED TO OBTAIN AN ATTORNEY FOR THIS
MATTER.**

DATED: Albany, New York

July 24, 2001



ANTONIA C. NOVELLO, M.D. M.P.H, Dr. P.H.,
Commissioner

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER
OF
DAVID SCHWARTZ, M.D.
CO-01-02-0644-A

STATEMENT
OF
CHARGES

DAVID SCHWARTZ, M.D., the Respondent, was authorized to practice medicine in New York state on February 10, 1965, by the issuance of license number 093013 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 22, 2000, the Commonwealth of Virginia, Department of Health Professions, Board of Medicine (hereinafter "Virginia Board"), by an Order of Summary Suspension (hereinafter "Virginia Order 1"), Summarily Suspended Respondent's license to practice medicine pending a formal hearing in the matter, based on gross negligence or carelessness in the treatment of a patient and substandard treatment of twelve (12) patients.

B. On or about March 9, 2001, the Virginia Board, by a Consent Order (hereinafter "Virginia Order 2"), accepted the Surrender for Indefinite Suspension of Respondent's license to practice medicine for not less than one (1) year and assessed a \$14,000.00 penalty, based on gross negligence, negligence on more than one occasion, gross incompetence, incompetence on more than one occasion, and inadequate recordkeeping.

C. On or about April 9, 2001, the District of Columbia, Department of Health, (hereinafter "DC Board"), by a Notice of Summary Action to Suspend License. Summarily suspended Respondent's license to practice medicine, based on the actions described in Paragraphs A and B above.

D. The conduct resulting in the Virginia Board disciplinary actions against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than one occasion);
4. New York Education Law §6530(6) (gross incompetence); and/or
5. New York Education Law §6530(32) (inadequate recordkeeping).

E. The conduct resulting in the DC Board disciplinary action against the Respondent would constitute misconduct under the laws of the New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(9)(b) (by 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 this state, constitute professional misconduct under the laws of this state); and/or
2. New York Education Law §6530(9)(d) (by having had his license to practice medicine suspended or having other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the

conduct resulting in the suspension or other disciplinary action would, if committed in this state, constitute professional misconduct under the laws of this state).

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(b) by 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, in that Petitioner charges:


1. The facts in Paragraphs A, B, and/or D.
2. The facts in Paragraphs A, B, C, D, and/or E.

THIRD AND FOURTH SPECIFICATIONS

Respondent violated New York State Education Law §6530 (9)(d) by had his license to practice medicine suspended or having other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

3. The facts in Paragraphs A, B, and/or D.
4. The facts in Paragraphs A, B, C, D, and/or E.

DATED: *July 20*, 2001
Albany, New York


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