



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

May 7, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Robert Bogan, Esq.
Mr. Paul Robert Maher, Esq.
NYS Department of Health
Hedley Park Place – 4th Floor
Troy, New York 12180

Barry Ralph Maron, M.D.
7125 Ticonderoga Road N.E.
Albuquerque, New Mexico 87109

RE: In the Matter of Barry Ralph Maron, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 01-113) 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), 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.

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.

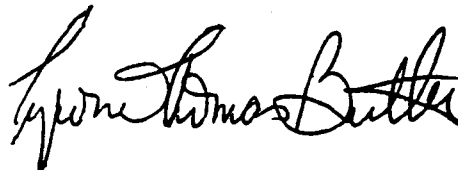
The notice of review served on the Administrative Review Board should be forwarded to:

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, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

COPY

IN THE MATTER
OF
BARRY RALPH MARON, M.D.

DETERMINATION

AND

ORDER

BPMC #01-113

A Notice of Referral Proceeding and Statement of Charges, both dated February 2, 2001, were served upon the Respondent, **Barry Ralph Maron, M.D.** **John Waldman, M.D.**, Chairperson, **Sheldon Putterman, M.D.**, and **Ms. Heidi Miller**, 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. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on April 19, 2001, at the Offices of the New York State Department of Health ("the Petitioner"), Hedley Park Place, 433 River Street, Troy, New York. The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, and **Paul Robert Maher, Esq.**, of Counsel. The Respondent, **Barry Ralph Maron, M.D.**, appeared in person on his own behalf.

Evidence was received 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 when a licensee is charged solely with a violation of Education Law Section 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 that 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: Barry Ralph Maron, M.D., the Respondent

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex.". These citations refer to 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. All Hearing Committee findings were unanimous.

1. Barry Ralph Maron, M.D., the Respondent, was authorized to practice medicine in New York State on August 18, 1965, by the issuance of license number 095131 by the New York State Education Department (Petitioner's Ex. 4).

2. On July 19, 2000, the Michigan Department of Consumer & Industry Services, Bureau of Health Services, Board of Medicine, Disciplinary Subcommittee (hereinafter "the Michigan Board") issued a Consent Order that placed the Respondent on probation for two years, the probation to include monitoring of his medical practice. This action was based on a finding that the Respondent suffers from a bipolar disorder and that this condition adversely affects his ability to practice medicine in a safe and competent manner. (Petitioner's Ex. 5)

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State pursuant to New York State Education Law Section 6530(7) (practicing the profession while impaired by physical or mental disability).

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York Education Law Section 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.

VOTE: Sustained (3-0)

SECOND SPECIFICATION

Respondent violated New York State Education Law Section 6530(9)(d) by having had 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 disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state.

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that on July 19, 2000, the Michigan Board issued a Consent Order. The Consent Order is the basis for the New York State professional misconduct charges against the Respondent and the findings of professional misconduct in this Determination and Order.

The Respondent was not charged in the Statement of Charges (Petitioner's Ex. 1, pp. 4-5) with doing anything dishonest, immoral, negligent or incompetent. The charges against him are limited to a medical condition from which he suffers through no fault of his own. However, that condition, bipolar disorder, places into question his ability to practice medicine competently and reliably without supervision. Because the Respondent's problem is the result of a medical condition, no action in the nature of a penalty should be imposed. However, because his condition can affect the quality of the medical care the Respondent provides, several precautions need to be taken and a limitation on his practice of medicine needs to be imposed to protect the New York State patients who may be treated by the Respondent. The precautions are listed below. They are self-explanatory and their purpose is self-evident.

The limitation that will be placed on the Respondent's license is a prohibition against performing surgery. The Respondent's own testimony demonstrates that his bipolar disorder varies in intensity and debilitating effect without pattern or

predictability. He can be fine one day and unable to function the next. From time to time, the days that he is scheduled to perform surgery could be days on which he is not mentally and emotionally equipped to do so. The Respondent testified at the hearing that his intention is to refrain voluntarily from performing surgery. For the protection of New York State patients, that intention must be converted into a limitation on the Respondent's license.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine is limited to the extent that he is not authorized to perform surgery.
2. If the Respondent chooses to return to practice medicine in New York State, he must:
 - a. provide ninety days prior notice to the Department's Office of Professional Medical Conduct ("OPMC"),
 - b. in that notice, state the nature and scope of the practice he intends to pursue,
 - c. obtain a written report from a psychiatrist acceptable to OPMC, stating that the Respondent is capable of competently practicing medicine in the type of practice that the Respondent intends to pursue,
 - d. remain under the care of a psychiatrist acceptable to OPMC for the duration of his medical practice in New York State, that psychiatrist to submit reports concerning the state of the Respondent's mental health to OPMC at a frequency determined by OPMC, and
 - e. enter a practice monitoring agreement acceptable to OPMC.

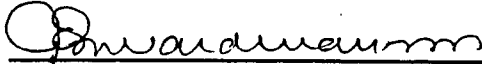
3. The practice monitor must be a licensed physician, board certified in the Respondent's specialty and approved by OPMC. The Respondent must make all his medical records available to the practice monitor and must submit to on-site observation by the practice monitor. The practice monitor will make periodic reports to OPMC concerning the quality of care provided by the Respondent. The frequency of on-site inspections and reports to OPMC will be in accord with the requirements of the practice monitoring agreement, except that any deviation from generally accepted standards of medical care or refusal to cooperate with the monitor will be reported within 24 hours to OPMC.

4. The Respondent is liable for all costs incurred in the implementation of this Order.

5. Upon receipt of evidence of noncompliance with or violation of the terms of this Order, the Petitioner may initiate such proceedings as are authorized by law regarding the Respondent's license to practice medicine.

6. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: ALBANY, New York
APRIL 30, 2001



John Waldman, M.D.
Chairperson

Sheldon Putterman, M.D.
Ms. Heidi Miller

APPENDIX I

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

IN THE MATTER

OF

**BARRY RALPH MARON, M.D.
CO-00-09-4195-A**

**NOTICE OF
REFERRAL
PROCEEDING**

TO: BARRY RALPH MARON, M.D.
7125 Ticonderoga Road N.E.
Albuquerque, N.M. 87109

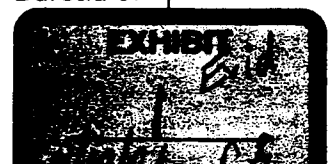
PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 21st day of March 2001, at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York state. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of



Adjudication") as well as the Department of Health attorney indicated below, on or before March 12, 2001.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before March 12, 2001, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. 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 proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

February 2, 2001



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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0820

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
BARRY RALPH MARON, M.D.
CO-00-09-4195-A

STATEMENT
OF
CHARGES

BARRY RALPH MARON, M.D., the Respondent, was authorized to practice medicine in New York state on May 12, 1966, by the issuance of license number 095131 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 19, 2000, the State of Michigan, Department of Consumer & Industry Services, Bureau of Health Services, Board of Medicine, Disciplinary Committee (hereinafter "Michigan Board"), by a Consent Order (hereinafter "Michigan Order"), placed Respondent on PROBATION for two (2) years with conditions, based on practicing the profession while impaired by a bipolar disorder.

B. The conduct resulting in the Michigan Board's disciplinary action 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(7) (practicing the profession while impaired by physical or mental disability).

SPECIFICATIONS
FIRST SPECIFICATION

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 and/or B.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having had 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 disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in paragraphs A and/or B.

DATED: *Feb. 2*, 2001
Albany, New York

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