



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower    The Governor Nelson A. Rockefeller Empire State Plaza    Albany, New York 12237

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

April 18, 1996

Karen Schimke  
Executive Deputy Commissioner

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Cindy M. Fascia, Esq.  
New York State Department of Health  
Corning Tower - Room 2438  
Empire State Plaza  
Albany, New York 12237

Necati M. Alp, M.D.  
8415 Bellona Lane Apt. 100  
Towson, MD 21204

RE: In the Matter of Necati M. Alp, M.D.

Effective Date: 04/25/96  
Dear Ms. Fascia and Dr. Alp :

Enclosed please find the Determination and Order (No. BPMC-96-84) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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), "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 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.

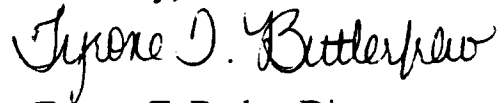
The notice of review served on the Administrative Review Board should be forwarded to:

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".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB: crc  
Enclosure

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

**COPY**

**IN THE MATTER  
OF  
NECATI M. ALP, M.D.**

**DETERMINATION**

**AND**

**ORDER**

**BPMC-96-84**

A Notice of Hearing and Statement of Charges, both dated January 18, 1996, were served upon the Respondent, **NECATI M. ALP, M.D.** **TERESA S. BRIGGS, M.D.** (Chair), **RICHARD F. KASULKE, M.D.** and **REV. EDWARD J. HAYES**, 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. **CHRISTINE C. TRASKOS, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on March 6, 1996. The Department of Health appeared by **HENRY M. GREENBERG, GENERAL COUNSEL**, by **CINDY M. FASCIA, ESQ.**, Associate Counsel. The Respondent did not appear and was not represented by counsel. 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 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 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 Section 6530(9)(b). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

## FINDINGS OF FACT

The following Findings of Facts were made after a review of the entire record in this matter. Numbers in parenthesis 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. Respondent was authorized to practice medicine in New York State on March 10, 1966 by the issuance of license number 096260 by the New York State Education Department.  
(Pet.Ex. #3)

2. The State of Maryland Board of Physician Quality Assurance, by Consent Order dated June 28, 1995, found Respondent guilty of immoral or unprofessional conduct in the practice of medicine in violation of Md. Code Ann. §14-404(a)(3) and of failing to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care in violation of Md. Code Ann. §14-404(a)(22). The Maryland Board, inter alia, reprimanded Respondent and ordered that Respondent be absolutely prohibited from practicing medicine in Maryland and that Respondent, effective September 30, 1995, shall hold an inactive medical license. (Pet.Ex. #4)
  
3. The conduct underlying the Maryland Board's finding of unprofessional conduct consisted of Respondent, inter alia, during the course of providing psychiatric care to a patient, engaging in physical contact with the patient, including hugging and kissing, performing physical examinations on the patient, including applying medicinal ointment to her chest, which occurred at the patient's home, inviting the patient for meals at Respondent's home, and engaging in gift-giving. (Pet.Ex. #4)

### **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 Hearing Committee unanimously concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent was disciplined by the State of Maryland Board of Physician Quality Assurance for committing boundary violations with a psychiatric patient. Section 6530(9)(b) of the Education Law defines professional misconduct as

"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." As a result, the Hearing Committee voted to sustain the Specification of professional misconduct contained within 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's license to practice medicine in New York State should be revoked. 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.

Respondent did not appear at the hearing and no mitigating factors were offered on his behalf. The Hearing Committee believes that inappropriate physical contact with a patient renders a physician morally unfit for the practice of medicine. The Maryland Board ordered Respondent to apply for an inactive license and Respondent agreed that he will never apply for reinstatement of full active medical licensure in the State of Maryland. (Pet.Ex. #4) These sanctions would be tantamount to license revocation under the penalty provisions of Section 230(a) of the Public Health Law of New York State.


Therefore, the Hearing Committee believes that they can do no less than the Maryland Board to protect the citizens of New York State. Under the totality of the circumstances, revocation is the appropriate sanction in this instance.

**ORDER**

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

1. The Specification of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED**.
2. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**.
3. This Order shall be effective upon the Respondent or the Respondent's attorney by certified or registered mail.

**DATED: Albany, New York**  
April 15 1996

  
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**TERESA S. BRIGGS, M.D.**  
**(Chair)**

**RICHARD F. KASULKE, M.D.**  
**REV. EDWARD J. HAYES**



**TO:** Cindy M. Fascia, Esq.  
Associate Counsel  
NYS Department of Health  
Corning Tower-Room 2438  
Empire State Plaza  
Albany, New York 12237

Necati M. Alp, M.D.  
8415 Bellona Lane Apt. 100  
Towson, MD 21204

**APPENDIX I**

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

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IN THE MATTER : NOTICE OF  
OF : REFERRAL  
NECATI M. ALP. M.D. : PROCEEDING

-----x

TO: NECATI M. ALP. M.D.  
116 West University Parkway  
Apt. 1218  
Baltimore, Maryland 21210

*use address : 8415 Bellona Lane  
Towson, M.D.  
21284*

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1996) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1996). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 6th day of March, 1996 at 10:00 a.m. in the forenoon of that day at the Empire State Plaza, Cultural Education Building, Concourse Level, Meeting Room E, Albany, New York 12230.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. 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 which 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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before February 21, 1996.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before February 21, 1996, 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  
*January 18, 1996*

*Peter D. Van Buren*

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

Inquiries should be addressed to:

E. Marta Sachey  
Associate Counsel  
NYS Department of Health  
Division of Legal Affairs  
Corning Tower Building  
Room 2429  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
NECATI M. ALP. M.D. : CHARGES

-----X

NECATI M. ALP, M.D., the Respondent, was authorized to practice medicine in New York State on March 10, 1966 by the issuance of license number 096260 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine in New York State.

**FACTUAL ALLEGATIONS**

1. The State of Maryland Board of Physician Quality Assurance, by Consent Order dated June 28, 1995, found Respondent guilty of immoral or unprofessional conduct in the practice of medicine in violation of Md. Code Ann. §14-404(a)(3) and of failing to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care in violation of Md. Code Ann. §14-404(a)(22). The Maryland Board, inter alia, reprimanded Respondent and ordered that Respondent be absolutely prohibited from

practicing medicine in Maryland and that Respondent, effective September 30, 1995, shall hold an inactive medical license.

2. The conduct underlying the Maryland Board's finding of unprofessional conduct consisted of Respondent, inter alia, during the course of providing psychiatric care to a patient, engaging in physical contact with the patient, including hugging and kissing, performing physical examinations on the patient, including applying medicinal ointment to her chest, which occurred at the patient's home, inviting the patient for meals at Respondent's home, and engaging in gift-giving.
  
3. The conduct underlying the Maryland Board's finding of unprofessional conduct would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(20) [conduct in practice of medicine which evidences moral unfitness] and/or §6530(3) [negligence on more than one occasion] (McKinney Supp. 1996).



SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1996) by reason of his 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 the facts in Paragraphs 1 through 3.

DATED: *January 18*, 1996  
Albany, New York

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