



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

Karen Schimke
Executive Deputy Commissioner

March 28, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kevin C. Roe, Esq.
New York State Department of Health
Empire State Plaza
Corning Tower - Room 2438
Albany, New York 12237

Charles Semonsky, M.D.
1130 Upper Hembree Road
Roswell, Georgia 30076

Effective Date: 04/04/96

RE: In the Matter of Charles Semonsky, M.D.

Dear Mr. Roe and Dr. Semonsky :

Enclosed please find the Determination and Order (No. BPMC-96-64) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

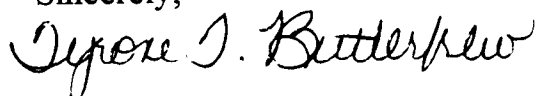
All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

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,

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-

CHARLES SEMONSKY, M.D.

Respondent

DETERMINATION

AND

ORDER

BPMC-96-64

A Notice of Referral Proceeding and Statement of Charges, both dated December 14, 1995, were served upon the Respondent, Charles Semonsky, M.D. **CHARLOTTE S. BUCHANAN (Chair), JAMES EGNATCHIK, M.D. and STEVEN V. GRABIEC, M.D.**, 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. **JEFFREY W. KIMMER, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Kevin C. Roe, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. Evidence was received, statements were 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). This statute provides for an expedited proceeding 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 prior professional disciplinary action or criminal conviction. The scope of this expedited proceeding 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 § 6530 (9)(b) and (d). Subdivision (b) defines professional misconduct as being found guilty of misconduct by another state where the underlying conduct, if committed in New York would constitute professional misconduct. The Respondent was found guilty of unprofessional conduct by the State of Georgia. Specifically, he had sexual relations with two of his patients and disclosed confidential information about one of these patients to a third party without a legitimate medical reason for doing so.

Subdivision (d) defines professional misconduct as having a license to practice medicine suspended after a disciplinary action was instituted by another state, where the underlying conduct upon which the suspension was based, if committed in New York, would constitute professional misconduct in this state. The Respondent's license to practice medicine was suspended by the State of Georgia based on the conduct noted above.

The allegations in this proceeding are more particularly set forth in the Statement of Charges, copies of which are attached to this Determination and Order as Appendix One.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to 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. Charles J. Semonsky, M.D.(hereinafter, "Respondent"), was licensed to practice medicine in New York State on July 13, 1966 by the issuance of license number 97001 by the New York State Education Department. (Pet. Ex. #3).
2. On or about August 7, 1995, Respondent was found to have violated numerous Georgia statutes in the course of his practice of medicine by the Composite State Board of Medical Examiners of Georgia (hereinafter "Georgia Board"). The Georgia Board found his conduct constituted unprofessional conduct. (Pet. Ex. #2)
3. The Georgia Board made Findings of Fact that the Respondent had sexual relations with two patients and had disclosed confidential information about one of these patients to a third party for no legitimate medical reason . (Pet. Ex. #2)
4. On or about August 7, 1995, Respondent's license to practice medicine was suspended by the Georgia Board based on the conduct noted in Finding of Fact #3 (above).
5. The conduct noted in Finding of Fact #3 (above) would constitute professional misconduct under New York Law. Specifically, N.Y. Education Law §6530(20)(moral unfitness) and (23)(revealing of personal information obtained in a professional capacity).

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 concluded that the Department has sustained its burden of proof in this matter. The preponderance of the evidence demonstrates that Respondent was found guilty of professional misconduct by a professional disciplinary agency of another state. This finding of guilt was based on the Respondent's conduct, which if committed in New York would have amounted to professional misconduct. Furthermore, the Respondent's license to practice medicine was suspended for the same conduct noted above. Consequently, the Committee voted to sustain the First and Second Specifications. (the Committee notes that the Second Specification should state the Respondent's license was "suspended" rather than "revoked.")

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.

It is clear that Respondent has breached his fiduciary duty with respect to his treatment of his patients. The Committee finds that Respondent, while purportedly rendering medical care, engaged in conduct which violates a trust related to the practice of the profession and which violates the moral standards of the professional community.

The Committee found the Respondent's actions with respect to the patients in question constituted a violation of professional trust. These patients came to the Respondent seeking medical help and Respondent severely abused the trust that they placed in him.

The Committee found the Respondent engaged in conduct which evidences moral unfitness to practice medicine. The facts show the Respondent violated his professional trust and the ethical standards of the medical community to which he belongs.

The Hearing Committee unanimously determined that a person capable of such conduct should not be afforded the privilege of practicing medicine in New York and that revocation is the only appropriate sanction under the circumstances.

ORDER

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

1. The First and Second Specification of professional misconduct, as set forth in the Statement of Charges (with the correction noted above) (Appendix One) is

SUSTAINED;

2. Respondent's license to practice medicine in New York State be and hereby is

REVOKED.

DATED: Albany, New York
March 25, 1996

Charlotte S. Buchanan

CHARLOTTE S. BUCHANAN (CHAIR)

James Egnatchik, M.D.

Steven V. Grabiec, M.D.

TO: **KEVIN P. C. ROE, ESQ.**
Associate Counsel
Bureau of Professional Medical Conduct
New York State Department of Health
Corning Tower Building
Empire State Plaza
Albany, N.Y. 12237

CHARLES SEMONSKY, M.D.
1130 Upper Hembree Road
Roswell Georgia 30076

(Signature)

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
CHARLES SEMONSKY, M.D. : CHARGES

-----X

CHARLES SEMONSKY, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 28, 1966, by the issuance of license number 097001 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 7, 1995, Respondent license to practice medicine in the State of Georgia was suspended for three months and placed on probation for three years under certain terms and conditions by the Composite State Board of Medical Examiners of the State of Georgia based on findings that Respondent had engaged in immoral, unethical, deceptive or deleterious conduct or practice harmful to the public in violation of OCGA §§43-34-37(a)(7) and 43-1-19(a)(6); committed acts or admissions indicative of bad moral character or untrustworthiness in violation of OCGA §43-34-37(a)(11); committed acts of sexual intimacies, misconduct, or exploitation related to his practice of medicine in violation of OCGA §§43-34-37(a)(10), 43-1-19(a)(8), and board rule 360-2-.09(i); and breached patient confidentiality as established in OCGA §24-9-21(5). The conduct upon which the Georgia findings were based,

would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §§6530(20), (23) and/or (44).

FIRST AND SECOND SPECIFICATIONS

OUT OF STATE DISCIPLINE

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 misconduct under the laws of New York State in violation of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1995) in that, Petitioner alleges:

1. The facts in Paragraph A.

Respondent is charged having his license to practice medicine revoked after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct under the laws of New York State in violation of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1995) in that, Petitioner alleges:

2. The facts in Paragraph A.

DATED: *December 14*, 1995
Albany, New York

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