



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 22, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ann Hroncich, Esq.
NYS Department of Health
5 Penn Plaza - 6th Floor
New York, NY 10001

Rosalinda Penafiorida, M.D.
15600 Rancho Viejo Drive
Riverside, California 92504

RE: In the Matter of Rosalinda Penafiorida, M.D.

Dear Ms. Hroncich and Dr. Penafiorida:

Enclosed please find the Determination and Order (No. BPMC-93-142) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

New York State Department of Health
Office of Professional Medical Conduct
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 than 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 (p), 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.

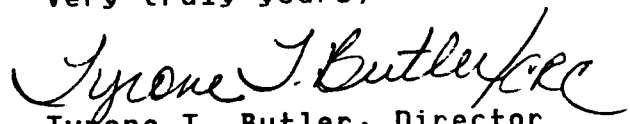
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Corning Tower -Room 2503
Empire State Plaza
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.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler". The signature is written in black ink and is positioned above the typed name and title.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

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

-----X
IN THE MATTER ; DETERMINATION
OF ; AND
ORDER
ROSALINDA PENAFLOIDA, M.D. ; NO. BPMC-93-142
-----X

A Notice of Hearing and Statement of Charges dated July 22, 1993 were served upon Respondent, ROSALINDA PENAFLOIDA, M.D. GEORGE HYAMS, M.D., Chairperson, SISTER MARY THERESA MURPHY and PASQUALE A. CARONE, M.D., duly designated members of the State Board of Professional Medical Conduct served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. JONATHAN M. BRANDES, ESQ., Administrative Law Judge, served as the Adminintrative Officer. A hearing was held on August 18, 1993 at the Offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York. The Department of Health appeared by Peter J. Millock, Esq., General Counsel, Ann Hroncich, Esq., Associate Counsel, of counsel. Respondent did not appear in person or by counsel. Evidence was received and a transcript of this proceeding was made.

STATEMENT OF CASE

The proceeding 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 New York 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 the expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon a licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to New York Education Law Section 6530(9)(b) (McKinney Supp. 1993), in that her license to practice medicine in the State of California was revoked based upon conduct which would constitute professional misconduct under section 6530 (2) and/or (21) of the New York Education Law. The charges are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges which are attached to this Determination and Order (Appendix I).

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 transcript page numbers or exhibits. The 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 19, 1976 by the issuance of license number 126812 by the New York State Education Department. The Respondent is not currently registered with the New York State

Education Department to practice medicine (Pet. Ex. 3).

2. On or about November 19, 1990, Respondent was found to have violated sections 810, 2234, 2261 and 2262 of the California Business and Professions code, based upon twelve separate fraudulent transactions with the State Medi-Cal program, both individually and in conspiracy with her business partner.

3. On or about November 19, 1990, Respondent's license to practice medicine in the State of California was revoked, effective December 19, 1990.

CONCLUSIONS

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee unanimously concluded that the Department of Health had met its burden of proof. The preponderance of the evidence clearly demonstrated that the Respondent's conduct underlying the revocation in the State of California constituted conduct which would be found to be professional misconduct under New York Education Law Section 6530(2) and (21).

The Hearing Committee, therefore, sustained the specification of misconduct contained in the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee pursuant to the Findings of Fact and Conclusions, set forth above, unanimously determined that Respondent's medical license be revoked. The Committee's determination as to penalty is based upon the finding of California that Respondent had committed fraud such that revocation was warranted. This Committee respects the findings of the California authorities and can see no reason to do otherwise.

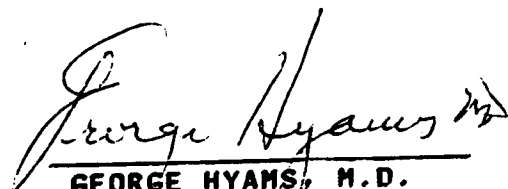
ORDER

Based upon the foregoing it is hereby ordered that:

1. The specification of professional misconduct contained in the Statement of Charges is **SUSTAINED**; and
2. Respondent's license to practice medicine in New York State is hereby **REVOKED**.

DATED: New York, New York

9-17, 1993



GEORGE HYAMS, M.D.
Chairperson

PASQUALE A. CARONE, M.D.
SISTER MARY THERESE MURPHY CSJ

TO: Ann Hroncich, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York

Rosalinda Penaflores, M.D.
15600 Rancho Viejo Drive
Riverside, California 92504

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

-----X
: IN THE MATTER :
:

OF :

ROSALINDA PENAFLOIDA, M.D. :
-----X

NOTICE OF
REFERRAL
PROCEEDING

TO: ROSALINDA PENAFLOIDA, M.D.
10259 Bonita Avenue
Riverside, CA 92503

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. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 18th day of August 1993 at one o'clock in the afternoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

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: NANCY MASSARONI, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before June 11, 1993.

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 August 6, 1993 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.

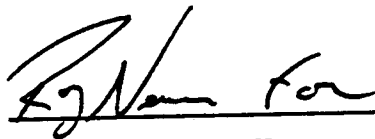
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior 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: New York, New York
July 22, 1993



Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Ann Hroncich
Associate Counsel
212-613-2615

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

-----X
IN THE MATTER : STATEMENT
OF : OF
ROSALINDA PENAFLOIDA, M.D. : CHARGES
-----X

ROSALINDA PENAFLOIDA, M.D., the Respondent, was authorized to practice medicine in New York State on March 19, 1976, by the issuance of license number 126812, by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. Respondent was last registered for the period January 1, 1986 to December 31, 1988, at 15600 Rancho Viejo Drive, Riverside, California 92504.

FIRST SPECIFICATION

HAVING HER LICENSE
TO PRACTICE MEDICINE REVOKED

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(b) (McKinney Supp. 1993), in that her license to practice medicine in the State of California was revoked, based upon conduct which would

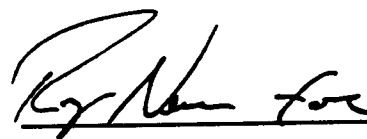
constitutue misconduct as defined by N.Y. Educ. Law Sec. 6530(2) and/or (21) (McKinney Supp. 1993), specifically:

On or about November 19, 1990, the Respondent was found to have violated Sections 810, 2234, 2261 and 2262 of the California Business and Professions Code, based upon twelve separate fraudulent transactions with the State Medi-Cal program, both individually and in conspiracy with her business partner.

Based on the foregoing findings, on or about November 19, 1990, Respondent's license to practice medicine in the State of California was revoked, effective December 19, 1990.

DATED: NEW YORK, NEW YORK

July 22 , 1993



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct