



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

PUBLIC October 1, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Sukumar Chaparala, M.D.
1220 Surrey Lane
Blackwell, OK 74631

Sukumar Chaparala, M.D.
The Osler Clinic
115 W. Bridge Avenue
Blackwell, OK 74631

RE: In the Matter of Sukumar Chaparala, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-260) 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.

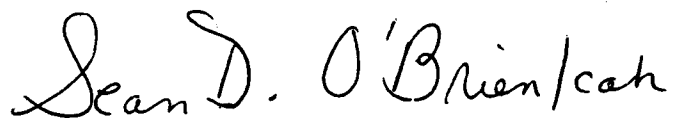
The notice of review served on the Administrative Review Board should be forwarded to:

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,



Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah
Enclosure

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

COPY

**IN THE MATTER
OF
SUKUMAR CHAPARALA, M.D.**

DETERMINATION

AND

ORDER

BPMC #03-260

A hearing was held on September 25, 2003, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated August 11, 2003, were served upon the Respondent, **Sukumar Chaparala, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Teresa S. Briggs, M.D, Ph.D.**, Chairperson, **Lyon M. Greenberg, M.D.**, and **Sandra Williams, R.N.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, and **Paul Robert Maher, Esq.**, of Counsel. The Respondent did not appear at the hearing, but did submit documentary evidence for the hearing record.

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 State 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). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: None

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. Sukumar Chaparala, the Respondent, was authorized to practice medicine in New York State on July 13, 1979, by the issuance of license number 138946 by the New York State Education Department (Petitioner's Ex. 4).

2. On or about January 24, 2002, the Respondent was charged with Domestic Abuse, a misdemeanor, in violation of 21 Oklahoma Statutes Section 644(C), and Trespassing, a misdemeanor, in violation of 21 Oklahoma Statutes Section 1835. On or

about February 28, 2002, the Respondent pled guilty to the charges and received a one year deferred sentence to end February 28, 2003, wherein he was required to pay a fine, submit to evaluations, attend Menders, and pay incarceration and court costs. (Respondent's Ex. 5).

3. On or about March 20, 2002, the Respondent submitted an application for renewal of his Oklahoma medical license wherein he falsely answered "No" to the question: "Since the last renewal or initial licensure (whichever is most recent), have you been arrested or charged or convicted of a felony or misdemeanor?" (Respondent's Ex. 5).

4. On March 27, 2003, the Oklahoma State Board of Medical Licensure ("Oklahoma Board"), by a Voluntary Submittal to Jurisdiction ("Oklahoma Order"), formally reprimanded the Respondent and placed him on two years probation with terms and conditions, based on failure to report the arrest on his medical license renewal application (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, had the conduct occurred in New York State, pursuant to:

- New York Education Law Section 6530(2) - "Practicing the profession fraudulently or beyond its authorized scope;"
- New York Education Law Section 6530(16) - "A willful or grossly negligent failure to comply with substantial provisions of federal, state or local laws, rules, or regulations governing the practice of medicine;"
- New York Education Law Section 6530(20) - "Conduct in the practice of medicine which evidences moral unfitness to practice medicine;" and

- New York Education Law Section 6530(21) - "Willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filing, or inducing another person to do so...;"

All other charges and specifications in the Statement of Charges were withdrawn by the Petitioner during the hearing.

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 Education Law Section 6530(9)(d) by having surrendered his license to practice medicine or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the surrender or other disciplinary action would constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that the Respondent was served with the Notice of Referral Proceeding and the Statement of Charges for this hearing (Petitioner's Ex. 2), but chose not to attend the hearing. He informed Mr. Bogan by telephone on two

occasions that he would not attend the hearing. Instead, he submitted documents for the hearing record (Respondent's Ex. A). On page 2 of Ex. A, the Respondent, who resides in Oklahoma, stated that he would not attend the hearing because of "the very long distance and my tight schedule..." The Administrative Law Judge ruled that the hearing could proceed in the Respondent's absence and admitted Respondent's Ex. A into evidence.

The documentary evidence proves that the Respondent committed domestic abuse against his wife as well as the crime of trespassing. Afterward, on the application for renewal of his Oklahoma medical license, the Respondent lied about his arrest for these crimes, which in turn led to the disciplinary action taken by the Oklahoma Board.

There is little information in Respondent's Ex. A that is of any use to his case. A November 15, 2002, letter written by Shree S. Vinekar, M.D., a psychiatrist, states that it "is the opinion of this examiner that Dr. Chaparala did not have any conscious intentions or premeditation to defraud the Oklahoma State Board of Medical Licensure and Supervision in filling out and in signing a routine license renewal application in April or May 2002." (Respondent's Ex. A, p. 3). The Oklahoma Board, however, ruled in the Oklahoma Order that the Respondent acted fraudulently when he submitted the license renewal application (Petitioner's Ex. 5, pp. 7-8). There is no such thing as unintentional fraud or fraud by mistake. For a statement on the renewal application to be fraudulent, the Respondent had to know at the time that he made the statement that it was false. The Hearing Committee is required by Public Health Law Section 230(10)(p) to reject any claim that there are inaccurate findings in the other state's disciplinary proceeding order. The Hearing Committee rejects the Respondent's contention that he did not act fraudulently when he filled out and submitted the Oklahoma renewal application.

Dr. Vinekar's report also states that the Respondent and his wife have reconciled their differences and are living together with no "major conflicts..." (Respondent's Ex. A, p. 4). The Hearing Committee is concerned about what difficulties the word "major" may be concealing. The use of this word may be a device to gloss over substantial problems.

The Respondent's decision to submit Respondent's Ex. A rather than attend the hearing leaves the Hearing Committee with very little evidence in the Respondent's favor and with no reason to conclude that no penalty or a minor penalty is sufficient in this case. Of particular concern is the fact that there is very little evidence in Respondent's Ex. A about his compliance with the Oklahoma Order.

The Respondent beat his wife, was arrested, and lied on his Oklahoma renewal application about the arrest. Such conduct merits a suspension of the Respondent's New York State license to practice medicine.

ORDER


IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine is suspended. The suspension shall be terminated upon the occurrence of both of the following:
 - (a) the successful completion of the probation imposed by the Oklahoma Order, and
 - (b) the submission of a psychiatric evaluation stating that the Respondent has the mental capacity and emotional stability to practice medicine safely. The evaluation is to be performed by a psychiatrist chosen by the Petitioner's Office of Professional Medical Conduct.
2. A civil penalty of \$10,000.00 is assessed against the Respondent. The civil penalty must be paid within 120 days of the effective date of this Order. The payment must be made to the Bureau of Accounts Management, New York State Department of

Health, Corning Tower, Room 1258, Empire State Plaza, Albany, New York 12237.
Failure to pay the civil penalty within the required time shall subject the Respondent to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees, referral to the New York State Department of Taxation and Finance for collection, and non-renewal of permits and licenses (Tax Law Section 171[17], State Finance Law Section 18, CPLR Section 5001, Executive Law Section 32).

3. 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
Sept 30, 2003

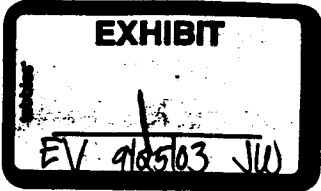


Teresa S. Briggs, M.D., Ph.D.
Chairperson

Lyon M. Greenberg, M.D.
Sandra Williams, R.N.

APPENDIX 1

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



IN THE MATTER

OF

SUKUMAR CHAPARALA, M.D.
CO-03-05-2283-A

NOTICE OF ORIGINAL
REFERRAL
PROCEEDING

TO: SUKUMAR CHAPARALA, M.D.
1220 Surrey Lane
Blackwell, OK 74631

SUKUMAR CHAPARALA, M.D.
The Osler Clinic
115 W. Bridge Avenue
Blackwell, OK 74631

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 25th day of September 2003, 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.

JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before September 15, 2003.

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 September 15, 2003, 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.

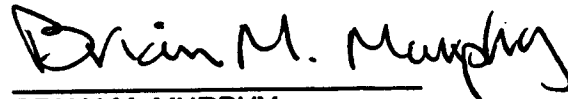
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days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

27 August, 2003



BRIAN M. MURPHY
Chief 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) 402-0828

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

SUKUMAR CHAPARALA, M.D.
CO-03-05-2283-A

STATEMENT

OF

CHARGES

SUKUMAR CHAPARALA, M.D., the Respondent, was authorized to practice medicine in New York state on July 13, 1979, by the issuance of license number 138946 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 24, 2002, Respondent was charged with the crimes of DOMESTIC ABUSE, a misdemeanor, in violation of 21 Oklahoma Statute §644(C) and TRESPASSING, a misdemeanor, in violation of 21 Oklahoma Statute §1835 and on or about February 28, 2002, he pled guilty to the charges and received a one (1) year deferred sentence to end February 28, 2003, wherein he was required to pay a fine, submit to evaluations, attend Menders, and pay incarceration and court costs.

B. On or about March 20, 2002, Respondent submitted an application for Renewal of his Oklahoma License wherein he falsely answered "No" to the question: "Since the last renewal or initial licensure (whichever is most recent), have you been arrested or charged or convicted of a felony or misdemeanor?"

C. On or about March 27, 2003, the Oklahoma State Board of Medical Licensure (hereinafter "Oklahoma Board"), by an Voluntary Submittal to Jurisdiction and Supervision (hereinafter "Oklahoma Order "), FORMALLY REPRIMANDED Respondent and placed him on two (2) years PROBATION under terms and conditions, based on failure to report the arrest, set forth in Paragraph A, above, on his medical license renewal, set forth in Paragraph B above, ~~habitual use of habit forming drugs, and being unable to practice medicine with reasonable skill~~

~~and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician (sic) condition.~~

D. The conduct resulting in the Oklahoma Board 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(2) (practicing the profession fraudulently);
2. ~~New York Education Law §6530(6) (being a habitual abuser of alcohol, or being dependent upon or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects);~~
3. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules, or regulations);
4. New York Education Law §6530(20) (moral unfitness); and/or
5. New York Education Law §6530(21) (willfully making or filing a false report required by law or by the department of health or the education department).

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, B, C, and/or D.

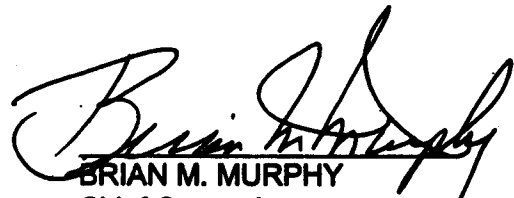
SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having surrendered his license to practice medicine or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the surrender

or other disciplinary action would constitute professional misconduct under the laws New York state, in that Petitioner charges:

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

DATED *August 27*, 2003
Albany, New York


BRIAN M. MURPHY
Chief Counsel
Bureau of Professional Medical Conduct