



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

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

Dennis P. Whalen
Executive Deputy Commissioner

September 2, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

James Beckett, M.D.
8027 West 82nd Street
Justice, Illinois 60458

Dianne Abeloff, Esq.
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

Eric P. Berlin, Esq.
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, Illinois 60606-1229

RE: In the Matter of James Beckett, M.D.

Dear Dr. Beckett, Mr. Berlin and Ms. Abeloff:

Enclosed please find the Determination and Order (No. BPMC-97-212) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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 penalties **other than suspension or revocation** 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:

Larry Storch, 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. Storch 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,

Handwritten signature of Tyrone T. Butler in black ink.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

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



IN THE MATTER

OF

JAMES BECKETT, M.D.

A proceeding before a Hearing Committee (Committee) from the State Board for Professional Medical Conduct (BPMC) into charges concerning professional misconduct by a physician.

DETERMINATION

AND

ORDER

BPMC-97-212

Before: PETER D. KUEMMEL, R.P.A.,(Chair), RUFUS A. NICHOLS, M.D. and ROBERT B. BERGMANN, M.D., Hearing Committee.

A Notice of Hearing and Statement of Charges (Appendix I) alleges that two sister states' duly authorized disciplinary agencies took disciplinary action against **JAMES BECKETT, M.D.** (Respondent) for conduct, alcohol and substance abuse, which would constitute professional misconduct under New York Law. This duly designated Committee conducted a hearing into those charges, pursuant to N.Y. Pub. Health Law § 230(10)(e)(McKinney's Supp. 1997), on July 25, 1997. At that hearing, the Committee received exhibits into evidence from both the Respondent and the New York State Department of Health (Petitioner), the Petitioner and Respondent presented oral argument, the Respondent testified by telephone and a stenographic reporter recorded the proceeding. After considering the record, the Committee renders this Determination that includes our Findings of Fact and Conclusions of Law. We vote unanimously to sustain the charges. We also vote unanimously to impose no penalty against the Respondent's New York License, because the evidence demonstrates that the Respondent is making a successful recovery from the alcohol and substance abuse problems, that resulted in the other states' disciplinary actions.

Administrative Law Judge **JAMES F. HORAN**, served as the Committee's Administrative Officer and drafted this Determination. The Petitioner appeared by **HENRY M. GREENBERG, GENERAL COUNSEL**, by **DIANNE ABELOFF, ESQ.** of Counsel. The Respondent appeared by **WILDMAN, HARROLD, ALLEN & DIXON**, by **ERIC P. BERLIN, ESQ.**

STATEMENT OF CASE

The Petitioner brought this case pursuant to N.Y. Pub. Health Law § 230(10)(p) (McKinney's Supp. 1997) and N. Y. Educ. Law § 6530(9)(McKinney's Supp. 1997). Those statutes provide for an expedited hearing when the case against a licensee arises solely from a prior criminal conviction in New York or another jurisdiction, or from a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. In such an expedited hearing, the statutes limit the Committee to determining the nature and severity for the penalty to impose against the licensee.

In the instant case, the Petitioner alleges that the Respondent committed professional misconduct under N.Y. Educ. Law § 6530(9)(d) (McKinney's Supp. 1997), because:

- the duly authorized disciplinary agencies from two other states (Indiana and Illinois) took disciplinary action against the Respondent's licenses in those states; and
- the conduct from which the Illinois and Indiana actions arose would have constituted misconduct in New York.

The Indiana and Illinois disciplinary actions arose from the Respondent's dependency on alcohol and cocaine. The Petitioner charged that such conduct would have constituted misconduct [Petitioner Exhibit 1] under the following categories in New York:

- practicing the profession while impaired by alcohol or drugs, a violation under N.Y. Educ. Law § 6530(7) (McKinney's Supp. 1997); and,
- being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, a violation under N.Y. Educ. Law § 6530(8)(McKinney's Supp. 1997).

The Petitioner made no recommendation to the Committee about a penalty.

In his answer [Respondent's Exhibit A], the Respondent admits that Indiana and Illinois took disciplinary action against him, but asks that the Committee dismiss the charges, or in the alternative, that the Committee leave the Respondent's New York License unrestricted, because the Respondent's conduct occurred outside New York.

SIGNIFICANT LEGAL RULINGS

Telephone Hearing : On July 7, 1997, the Respondent's counsel Mr. Berlin moved to conduct the hearing by telephone [ALJ Exhibit I], because the Respondent wished to address the Committee, but was unable to travel to New York due to his job responsibilities. The Petitioner's counsel Ms. Abeloff consented to the telephone hearing. After speaking separately to both parties and to the Committee's Chair, the Committee's Administrative Officer, Judge Horan, agreed to conduct the hearing by telephone, with the Committee, Judge Horan, Ms. Abeloff and the hearing reporter in Hearing Room D at 5 Penn Plaza and with the Respondent and Mr. Berlin on speaker phone from Mr. Berlin's Office in Chicago.

Evidence: The Petitioner introduced four exhibits into evidence, with no opposition from the Respondent:

Petitioner's 1 - Notice of Hearing and Statement of Charges.

Petitioner's 2 - The Respondent's Licensing Documents from the New York Education Department.

Petitioner's 3 - Documents relating to the Indiana Disciplinary Action.

Petitioner's 4 - Documents relating to the Illinois Disciplinary Action.

The Respondent introduced two documents into evidence, with no opposition from the Respondent:

Respondent's A - Answer

Respondent's B - Respondent's Hearing Brief, with Attachments A to F.

Judge Horan placed the Respondent's Motion for the Telephonic Hearing into the record as ALJ Exhibit I. The Respondent was the only witness at the hearing. The hearing record also includes the Transcript pages 1- 42.

FINDINGS OF FACT

The Committee makes the following Findings of Fact after reviewing the entire record in this matter. The references in brackets following the Findings refer to the exhibits [Petitioner's/ Respondent's] or testimony from the transcript [Tr.] that the Committee found persuasive in arriving at a particular finding. If any evidence in the record appears to conflict with these findings, the Committee considered and rejected that evidence in favor of the cited evidence.

1. The New York State Education Department authorized the Respondent to practice medicine in New York State on August 27, 1982, by issuing license number 151372 [Petitioner Exhibit 2].
2. In addition to his License in New York, the Respondent also holds medical licenses in Indiana, Illinois and Pennsylvania [Petitioner Exhibits 3 & 4; Respondent Exhibit B-Attachment A; Tr. 27].
3. In 1990 - 1992 the Respondent was practicing as a radiologist in Merriville, Indiana [Petitioner's Exhibit 3].
4. On May 28, 1993, the Executive Director of the Indiana Medical Board (Indiana Board) found the Respondent to be addicted to and dependent upon alcohol and/or drugs, that endangered the public by impairing his ability to practice medicine safely [Petitioner's Exhibit 3].
5. The Indiana Board suspended the Respondent's License for two years, stayed the suspension, and placed the Respondent on probation for twenty years [Petitioner's Exhibit 3].
6. The Indiana Board's Order noted that the Respondent had entered treatment on June 4, 1992, that the Respondent had been drug free from that date and that the Respondent had entered a five year aftercare agreement with the Physician's Assistance Program of the

Illinois State Medical Society [Petitioner's Exhibit 3].

7. The Respondent subsequently petitioned to terminate the probation, in order to obtain employment, because some hospital by-laws preclude staff privileges for anyone with a license on active probationary status [Tr. 24].
8. Following the Respondent's petition, the Indiana Board terminated the Respondent's probation on May 28, 1996, after finding that the Respondent had continued to remain drug and alcohol free and that he had complied with the Illinois Physician Assistance Program's terms [Petitioner's Exhibit 3, Respondent's Exhibit B-Attachment A].
9. On or about January 10, 1994, the Director of the Department of Professional Regulation of Illinois, with the Indiana action as the basis, ordered that the Respondent receive an Illinois Medical License, but the Director placed the Respondent on probation for twenty-one years and prohibited the Respondent from prescribing controlled substances, except in a hospital setting [Petitioner's Exhibit 4].
10. On or about July 1, 1996, the Illinois Department of Professional Regulation granted the Respondent's petition to terminate his probation [Petitioner's Exhibit 4, Respondent's Exhibit B-Attachment C].
11. Shortly after receiving the charges in this action, the Respondent contacted and signed an open contract with the Committee on Physician's Health (CPH) of the New State Medical Society [Tr. 28].
12. Such contract allows the Respondent's Illinois monitor to provide information about the Respondent's recovery status to CPH [Tr. 29].

CONCLUSIONS OF LAW

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

The Hearing Committee concluded unanimously that the Petitioner sustained their burden

to prove the charges. Preponderant evidence demonstrates that the duly authorized disciplinary agencies in Indiana and Illinois disciplined the Respondent for dependency on alcohol and cocaine. The Committee concludes further that the Indiana and Illinois actions involved conduct that would constitute misconduct in New York, under N.Y. Educ. Law §§ 6530(7) & 6530(8) (McKinney's Supp. 1997). After sustaining the charges, the Committee then considered whether to impose any sanction against the Respondent's New York License.

DETERMINATION AS TO PENALTY

Pursuant to the Findings of Fact and Conclusions of Law that we set forth above, the Committee votes unanimously to impose no sanction against the Respondent's New York License. The Respondent has commenced an impressive recovery from his addictions, he has abstained from alcohol or drug use since entering treatment in 1992, he has married, he has become active in a church and he has performed volunteer work to aid others working to recover from addiction [Respondent's Exhibit B-Attachments B, D-F]. In addition, the states with the most familiarity with the Respondent and his recovery, Illinois and Indiana, have terminated his probation in those states. Finally, the Respondent contacted CPH voluntarily to arrange for that Program to receive information about his ongoing recovery. The Committee sees no need to take any further action to protect New York's citizens.

ORDER

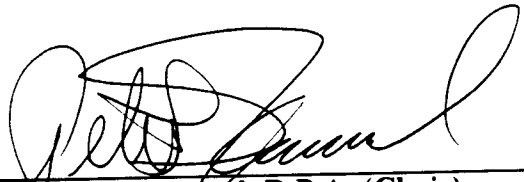
Based upon the foregoing, **THE COMMITTEE ISSUES THE FOLLOWING**

ORDER:

1. The Committee **SUSTAINS** the charge that the Respondent's conduct in Indiana and Illinois constitutes misconduct under New York Law.
2. The Committee votes unanimously to impose **NO PENALTY** against the Respondent's License to practice medicine in New York State.

Dated: Stony Brook, New York

August 25, 1997



Peter D. Kuemmel, R.P.A. (Chair)

**Rufus A. Nichols, M.D.
Robert B. Bergmann, M.D.**

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

IN THE MATTER
OF
JAMES BECKETT, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: JAMES BECKETT, M.D.
8027 West 82nd Street
Justice, IL 60458

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1997) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1997). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on July 24, 1997, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth 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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such 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 written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 (McKinney Supp. 1997) and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be

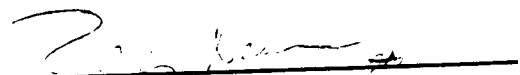
photocopied.

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: New York, New York
May 2, 1997



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Dianne Abeloff
Associate Counsel
NYS Department of Health
Division of Legal Affairs
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2615

IN THE MATTER
OF
JAMES BECKETT, M.D.

STATEMENT
OF
CHARGES

JAMES BECKETT, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 27, 1982, by the issuance of license number 151372 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 28, 1993, the Executive Director of the Indiana Medical Board (Indiana Board), found that Respondent was addicted to and dependent upon alcohol and /or drugs that endangered the public by impairing his ability to practice medicine safely. The Indiana Board ordered that Respondent's license be suspended for a period of two years; said suspension was stayed. Respondent's license to practice medicine was placed on probation for a period of 20 years.

Respondent petitioned the Indiana Board in May of 1996 for termination of the probation. The Indiana Board found that Respondent had been drug and alcohol free since June 4, 1992 and had strictly complied with the terms of the 1993 Order. On or about May 28, 1996, the Indiana Board terminated Respondent's Probation in Indiana.

B. On or about January 10, 1994, the Director of the Department of Professional Regulation of Illinois, on the basis of the Indiana action, Ordered that

Respondent be granted a license to practice medicine in Illinois; however, he was placed on a 21 year Probation and was not permitted to prescribe controlled substances except those prescribed while on duty in a hospital setting.

On or about July 1, 1996, the Director of the Illinois Department of Professional Regulation granted Respondent's petition to terminate probation.

SPECIFICATION OF CHARGES

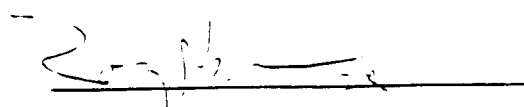
FIRST AND SECOND SPECIFICATIONS HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1997) 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 (namely N.Y. Educ. Law §§ 6530 (7) Practicing the profession while impaired by alcohol and/or drugs; 6530(8) Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics,

barbiturates, amphetamines, hallucinogens, or other drugs having similar effects) as alleged in the facts of the following:

1. Paragraph A.
2. Paragraph B.

DATED: May 2, 1997
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct