



**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

April 22, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kevin C. Roe, Esq.
New York State Department of Health
Tower Building - Room 2429
Empire State Plaza
Albany, New York 12237

John A. Scorza, M.D.
Redacted Address

Barry A. Gold, Esq.
Thuillez, Ford, Gold & Conolly
90 State Street
Albany, New York 12207

RE: In the Matter of John A. Scorza, M.D.

Dear Mr. Roe, Mr. Gold and Dr. Scorza:

Enclosed please find the Determination and Order (No. BPMC-96-98) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,

\ Redacted Signature

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

COPY

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

-----X
IN THE MATTER : DETERMINATION
OF : AND
JOHN A. SCORZA, M.D. : ORDER
-----X
BPMC-96-98

A Notice of Violation of Probation, dated December 29, 1995, was served upon the Respondent, John A. Scorza, M.D. TERESA S. BRIGGS, M.D., Ph. D. (Chair), CALVIN J. SIMONS, M.D., and D. MARISA FINN, 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. LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Kevin C. Roe, Esq., Associate Counsel. The Respondent appeared by Thuillez, Ford, Gold & Conolly, Barry A. Gold, Esq., of Counsel. A hearing was held on February 21, 1996. 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

By Order # BPMC 94-88, the State Board for Professional Medical Conduct accepted an application for a consent order in which Respondent admitted guilt to one specification of professional misconduct. The charge was based upon disciplinary action taken by the Commonwealth of Massachusetts due to Respondent's addiction to amphetamines. The consent order suspended Respondent's license for four years with said suspension stayed to become a period of probation.

By letter dated December 29, 1995, the Acting Director of the Office of Professional Medical Conduct determined that Respondent was in violation of the terms of probation in that it was alleged that Respondent was subsequently disciplined by the Massachusetts Board of Registration in Medicine for violations of his probation in that state. Respondent requested a hearing on the matter.

A copy of the Notice of Violation of Probation is attached to this Determination and Order in 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. 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. By Order #BPMC 94-88 dated June 16, 1994, the State Board for Professional Medical Conduct accepted an application for a consent order in which Respondent admitted guilt to having been found guilty of improper professional practice or professional misconduct by the Board of Registration in Medicine in the Commonwealth of Massachusetts (hereinafter "Massachusetts Board"). (Pet. Ex. #2).

2. Respondent admitted that he was disciplined by the Massachusetts Board for practicing while addicted to amphetamines and was an habitual user of such drugs, and had practiced medicine deceitfully, or had engaged in conduct which has the capacity to deceive or defraud. The Massachusetts Board indefinitely suspended Respondent's Massachusetts license, stayed said suspension and placed him on probation. (Pet. Ex. #2).

3. The New York Board suspended Respondent's license for four years, with said suspension stayed to become a period of probation under specified terms and conditions. Paragraph one of the terms of probation requires Respondent to conform fully to the moral and professional standards of conduct imposed by law and the profession. Paragraph five of the terms of probation requires that Respondent comply fully with the May 26, 1993 probation agreement with the Massachusetts Board and any extensions or modifications thereof. Paragraph six requires that Respondent cause the Massachusetts Board to submit quarterly reports to the Director of the Office of Professional Medical

Conduct verifying that he is in compliance with the Massachusetts probation. (Pet. Ex. #2).

4. On or about July 26, 1995, the Massachusetts Board issued a consent order which found that Respondent had violated his Massachusetts probation. The Massachusetts Board found that Respondent failed to disclose the existence of the New York disciplinary action on his 1994 Massachusetts renewal form. The Massachusetts Board further found that Respondent violated his probation agreement in that he failed to replace his monitors in a timely fashion after having been notified by the Board staff that his monitors were not submitting reports in a timely manner and were not meeting with him at his office. The Massachusetts Board also found that Respondent failed to inform the Board that he was on probation in New York and failed to request that the Massachusetts Board make quarterly reports to New York. The Board further found that Respondent misrepresented to the New York State Board for Professional Medical Conduct his failure to obtain quarterly reports from the Massachusetts Board and informed the New York Board that the Massachusetts Board was being "difficult" in supplying such quarterly reports when, in fact, the Board had no knowledge that such reports were required. (Pet. Ex. #3).

5. Pursuant to the July 26, 1995 consent order, the Massachusetts Board reprimanded Respondent and imposed a \$7,500.00 fine. (Pet. Ex. #3).

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. The preponderance of the evidence clearly demonstrates that Respondent violated the terms of probation set forth in the New York consent order. Respondent failed to cause the Massachusetts Board to submit quarterly reports to OPMC as required by Paragraph Six of the terms of probation. Respondent violated Paragraphs One and Five of the terms of probation by virtue of the violations of his Massachusetts probation, as set forth in the July 26, 1995 consent order issued by the Massachusetts Board.

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 suspended for two years. The suspension should be stayed and Respondent continue on probation. The terms of probation are contained in Appendix II of this Determination and Order and are incorporated herein. This sanction is imposed in addition to the period of suspension and probation imposed upon Respondent through the June 16, 1994 consent order (BPMC #94-88). 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.

The Hearing Committee is concerned about Respondent's seeming inability to comply with the monitoring provisions of his Massachusetts probation and was troubled by his lack of veracity in his prior dealings with both the Massachusetts Board and OPMC. Nevertheless, the Committee believes that revocation, the sanction recommended by Petitioner, is too severe under the circumstances.

The Hearing Committee takes notice of the fact that there is no evidence that Respondent has relapsed into his previous drug-abusing behavior. The Hearing Committee also takes notice of the sanction imposed upon Respondent by the Massachusetts Board for his probation violations. The Massachusetts Board chose to reprimand Respondent and fine him \$7,500.00.

This Hearing Committee has an independent responsibility to determine the appropriate sanction to be imposed upon Respondent's New York medical license. We are, however, mindful of the fact that Massachusetts, the state with which Respondent has the greatest contact, did not consider his conduct to warrant revocation. Under the circumstances, we similarly decline to revoke his New York license. It was the unanimous determination of the Hearing Committee that Respondent's license should be suspended for an additional two years, with the suspension stayed and Respondent continued on probation. This suspension is in addition to the suspension imposed under the terms of the June

16, 1994 consent order and will run consecutively. The Committee believes that this sanction strikes the appropriate balance between the need to protect the public and to permit Respondent an opportunity to demonstrate his rehabilitation and fitness to practice the profession.

ORDER

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

1. The finding of a violation of probation, as set forth in the Notice of Violation of Probation (Petitioner's Exhibit # 1) is **SUSTAINED**;

2. Respondent's license to practice medicine in New York State be and hereby is **SUSPENDED** for a period of **TWO YEARS**. The suspension shall be **STAYED** and Respondent shall be placed on probation. The complete terms of probation are set forth in Appendix II of this Determination and Order and are incorporated herein. The sanction imposed through this Determination and Order is in addition to the sanction imposed upon Respondent by the State Board for Professional Medical Conduct by the issuance of consent order BPMC #94-88 and shall run consecutively to said sanction;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by

certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
April 15, 1996

Redacted Signature

~~TERESA S. BRIGGS, M.D., Ph.D. (CHAIR)~~

CALVIN J. SIMONS, M.D.
D. MARISA FINN

TO: Kevin C. Roe, Esq.
Associate Counsel
New York State Department of Health
Tower Building - Room 2429
Albany, New York 12237

John A. Scorza, M.D.
54 Trout Farm Lane
Duxbury, Massachusetts 02332

Barry A. GOLD, Esq.
Thuillez, Ford, Gold & Conolly
90 State Street
Albany, New York 12207

SECRET

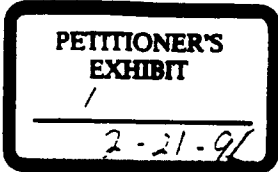


STATE OF NEW YORK DEPARTMENT OF HEALTH

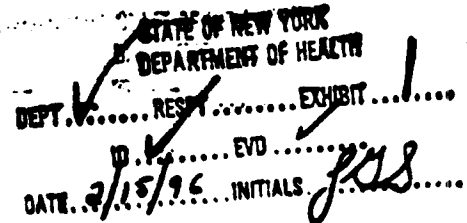
Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

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

Karen Schimke
Executive Deputy Commissioner



December 29, 1995



CERTIFIED MAIL - RETURN RECEIPT

John A. Scorza, M.D.
Redacted Address

RE: Notice of Violation of Probation

Dear Dr. Scorza:

As the Acting Director of the Office of Professional Medical Conduct of the New York State Department of Health, I have determined that you have violated the terms of probation imposed upon you by Order Number BPMC 94-88 dated June 16, 1994. My determination that you have violated the terms of your probation is based on the following:

1. By Order Number BPMC 94-88, the State Board for Professional Medical Conduct accepted your application for a consent order in which you admitted guilt to having been found guilty of improper professional practice or professional misconduct by the Commonwealth of Massachusetts. Order Number 94-88 suspended your license for four years with said suspension stayed to become a period of probation under the terms and conditions set forth therein.
2. Paragraph one of the terms of probation requires that you conform fully to the moral and professional standards of conduct imposed by law and your profession. Paragraph five of the terms of probation requires that you comply fully with the May 26, 1993 probation agreement with the Massachusetts Board of Registration in Medicine and any extensions or modifications thereof. Paragraph six requires that you cause the Massachusetts Board of Registration in Medicine to submit quarterly reports to the Director of the Office of Professional Medical Conduct verifying that you are in compliance with the Massachusetts probation.

3. On or about July 26, 1995, the Board of Registration in Medicine in the Commonwealth of Massachusetts issued a consent order which found that you had violated your Massachusetts probation by failing to disclose on your 1994 Massachusetts renewal form that you had been disciplined by the New York Board, failing to request that the Massachusetts Board send quarterly compliance reports to the New York Board, failing to replace your monitors in a timely fashion after being notified by Board staff, failing to comply with the monitoring requirements of the Massachusetts probation, misrepresenting your failure to attempt to obtain quarterly reports from the Massachusetts Board and informing the New York Board that the Massachusetts Board was being "difficult" in supplying such quarterly reports when, in fact, the Massachusetts Board possessed no knowledge that such reports were required.

By this letter I am initiating a violation of probation proceeding against you pursuant to New York Public Health Law §230(19) (McKinney Supp. 1995).

Be advised that if you do not dispute the facts forming the basis of my determination within twenty days of the date of this letter, I shall submit this matter to a committee on professional conduct for its review and determination. If within twenty days of the date of this letter, you dispute the facts forming the basis of my determination, you shall be afforded a hearing before a committee on professional conduct. You have the right to such a hearing and may be represented by counsel. A stenographic record of this hearing will be made. The committee, after providing you an opportunity to be heard, shall determine whether you have violated probation and, if so, shall impose an appropriate penalty as defined in New York Public Health Law §230-a (McKinney Supp. 1995). In determining the appropriate penalty, the committee shall consider both the violation of probation and the prior adjudication of misconduct. The chairperson of the committee shall issue an order adopting the decision of the committee on professional conduct. This order may be reviewed by the Administrative Review Board for Professional Medical Conduct.

Since this violation of probation proceeding may result in a determination that your license to practice medicine in New York may be revoked, I urge you to consult with an attorney. If you or your attorney wish to discuss this matter, or to request a hearing, you should call Kevin C. Roe, Associate Counsel at (518) 474-8266.

Very truly yours, /

Redacted Signature

Anne Salle
Acting Director
Office of Professional Medical Conduct

KCR/mak

**cc: Paul J. Griffin, Esq.
424 Adams Street
Milton, Massachusetts 02186**

**Barry A. Gold, Esq.
Thuilley, Ford, Gold
& Conolly
90 State Street, Suite 1522
Albany, New York 12207**

ANNEX II

APPENDIX II
TERMS OF PROBATION

1. Dr. Scorza shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.

2. Dr. Scorza shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Department of Health, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York.

3. Dr. Scorza shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees. Proof from DPLS shall be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation.

4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents. Proof of the above shall be submitted no later than the first two months of the period of probation.

5. Respondent shall comply fully with the July 26, 1995 Consent Order and the May 26, 1993 Probation Agreement of the Massachusetts Board of Registration in Medicine and any extensions or

modifications thereof.

6. Dr. Scorza shall cause the Massachusetts Board of Registration in Medicine to submit quarterly reports to the Director, OPMC, addressed as aforesaid, verifying that he is in compliance with his Massachusetts probation.

7. If there is full compliance with every term set forth herein, Dr. Scorza may practice as a physician in New York State in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance or any other violation of the terms of probation, a violation of probation proceeding and/or such other proceedings as may be warranted, may be initiated against Dr. Scorza pursuant to New York Public Health Law §230(19) or any other applicable laws.