



New York State Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

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

Charles J. Vacanti, M.D.
Chair

September 30, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

John H. Shary, M.D.
2114 West Sunset Lane
Mission, Texas 78572

RE: License No. 159188

Dear Dr. Shary:

Effective Date: 10/07/96

Enclosed please find Order #BPMC 96-234 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

Charles Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

cc: Timothy Mahar, Esq.

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

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IN THE MATTER :
OF : ORDER
JOHN H. SHARY, M.D. : BPMC #96-234

-----X

Upon the Application of JOHN H. SHARY, M.D., to Surrender his license as a physician in the State of New York, which application is made a part hereof, it is

ORDERED, that the Application and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order via certified mail, whichever is earliest.

SO ORDERED,

DATED 27 September 1996

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : APPLICATION TO
OF : SURRENDER
JOHN H. SHARY, M.D. : LICENSE

-----X

STATE OF MISSISSIPPI)

ss.:

COUNTY OF RANKIN)

JOHN H. SHARY, M.D., being duly sworn, deposes and says:

On or about July 16, 1984, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 159188 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that I have been charged with TWO Specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York.

I hereby plead no contest to the two Specifications and the allegations set forth in the Statement of Charges (Exhibit A).

I hereby make this application to the State Board for Professional Medical Conduct and request that it be granted.

I understand that, in the event that the application is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

I am making this Application of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

John H. Shary, M.D.

JOHN H. SHARY, M.D.
Respondent

Sworn to before me this
16th day of September, 1996

Marianne Russell
NOTARY PUBLIC

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

-----X

IN THE MATTER : APPLICATION TO
OF : SURRENDER
JOHN H. SHARY, M.D. : LICENSE

-----X

The undersigned agree to the attached application of the Respondent to surrender his license.

Date: 9-16-96, 1996 John H. Shary M.D.
JOHN H. SHARY, M.D.
Respondent

Date: Sept. 21, 1996 Timothy J. Mahar
TIMOTHY J. MAHAR
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: 9/25, 1996 Anne F. Saile
ANNE F. SAILE
ACTING DIRECTOR
Office of Professional Medical
Conduct

Date: 27 September 1996 Charles J. Vacanti
CHARLES J. VACANTI, M.D.
Chairperson, State Board
for Professional Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
JOHN H. SHARY, M.D. : CHARGES

-----X

JOHN H. SHARY, M.D., the Respondent, was authorized to practice medicine in New York State on July 16, 1984, by the issuance of license number 159188 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 9, 1995, the Texas State Board of Medical Examiners (Texas Board) made the following findings of fact, based upon facts stipulated to by Respondent in an agreed order:

1. On or about March 11, 1993, Respondent's clinical privileges at St. Paul Medical Center, Dallas, Texas, were suspended and withdrawn due to Respondent's failure to obtain adequate treatment for substance abuse. Respondent admitted to the "intemperate" use of cocaine, and received in-patient substance abuse treatment at Starlite Village, Center Point, Texas during the period March 23, 1993 to April 27, 1993.

B. The Texas Board found, among other things, that Respondent had violated §3.08(3) of the Texas Medical Practice Act (intemperate use of alcohol or drugs), and imposed a penalty of a stayed suspension upon Respondent's Texas medical license

and placed Respondent on probation for five years under the following terms, among others:

1. Required Respondent to abstain from the consumption of alcohol, dangerous drugs or controlled substances in any form unless prescribed by another physician for a legitimate or therapeutic purpose.
2. Required Respondent to submit to examination, including alcohol and drug screening.
3. Required Respondent to undergo psychiatric evaluation and treatment as recommended.
4. Prohibited Respondent from possessing cocaine in his office or other setting.

C. On or about May 15, 1996, the Texas Board made the following findings of fact based upon facts stipulated to by Respondent in an agreed order:

1. On or about April 21, 1996, Respondent ingested alcohol and cocaine which was confirmed by a positive toxicology screen of a urine sample taken on April 26, 1996. Respondent admitted to his ingestion of cocaine and alcohol to the Texas Board on May 2, 1996.

D. The Texas Board found, among other things, that Respondent violated §3.08(3) [intemperate use of alcohol or drugs] and §3.08(4) of the Texas Medical Practice Act [engaging in unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public] and imposed, among other things, a penalty of an indefinite suspension of Respondent's Texas medical license.

E. The conduct upon which the Texas Board found professional misconduct against Respondent, would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §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]; and/or N.Y. Educ. Law §6530(29) [violating any term of probation or condition or limitation imposed on the licensee pursuant to §230 of the PHL] and/or N.Y. Educ. Law §6530(20) [moral unfitness].

SPECIFICATIONS

FIRST SPECIFICATION

FINDING OF GUILT OF PROFESSIONAL MISCONDUCT BY OTHER STATE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1996) by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized disciplinary agency of another state, where the conduct resulting from a disciplinary action 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 and/or B, and/or E.
2. The facts in Paragraphs C and/or D, and/or E.

SECOND SPECIFICATION

DISCIPLINE BY OTHER STATE

In the alternative, Respondent is charged with professional

misconduct within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1996) by reason of having disciplinary action taken against his license to practice medicine by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

- 3. The facts in Paragraphs A and/or B, and/or E.
- 4. The facts in Paragraph C and/or D, and/or E.

DATED: *July 31*, 1996
Albany, New York

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