



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.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

October 16, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Charles Stewart, M.D.
8 Birchwood Drive
Port Jefferson Station, New York 11787

Charles M. Newell, Esq.
P.O. Box 1488
Quoque, New York 11959

Charles Stewart, M.D.
Department of Pediatrics
SUNY
Stony Brook, New York 11794

Robert Bogan, Esq. &
Paul Robert Maher, Esq.
NYS Department of Health
433 River St. – Hedley Bldg. –4th Fl.
Troy, New York 12180

RE: In the Matter of Charles Stewart, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-279) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

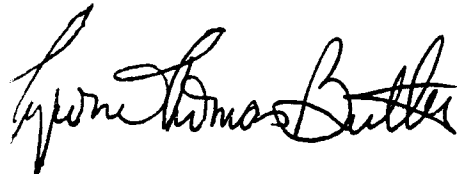
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

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

COPY

IN THE MATTER
OF
CHARLES STEWART, M.D.

DETERMINATION
AND
ORDER
BPMC – 00-279

A Commissioner's Order and Notice of Hearing dated, July 27, 2000, and a Statement of Charges dated July 24, 2000, were served upon the Respondent, **CHARLES STEWART, M.D.**

STEVEN GRABIEC, M.D., Chairperson, **JOHN MORTON, M.D.** and **MR. JAMES DUCEY**, 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on September 21, 2000, at the Best Western Rensselaer Inn, 1800 Sixth Avenue, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent appeared in person and was represented by **CHARLES M. NEWELL, ESQ.**, P.O. Box 1488, Quogue, New York 11959.

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 where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, 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 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)(a)(i). A copy of the Commissioner's Order, Notice of Hearing and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner

NONE

For Respondent:

CHARLES STEWART, M.D., Respondent

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. All Hearing Committee findings were unanimous unless otherwise specified.

1. CHARLES STEWART, M.D., the Respondent, was authorized to practice medicine in New York State on November 10, 1986, by the issuance of license number 168584 by the New York State Education Department. (Pet's Ex. 4).
2. On March 27, 2000, in the New York Supreme Court, County of Suffolk, Respondent was found guilty of Leaving the Scene of an Accident, a Class E felony, and was sentenced to five (5) years probation; to pay a \$5,000.00 fine and \$155.00 surcharge, and one (1) year revocation of his New York State Driver's License. (Pet's Ex. 5).
3. By ORDER, dated July 27, 2000, "Antonia C. Novello, M.D., M.P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has

determined that CHARLES STEWART, M.D., has been found guilty of committing an act constituting a felony under New York State law, in the Supreme Court of the County of Suffolk, State of New York.

4. The Commissioner "ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, CHARLES STEWART, M.D., Respondent shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Public Health Law Section 230(12)."

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(a)(i) by reason of having been convicted of committing an act constituting a crime under New York State law.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that on November 1, 1998, the Respondent was driving a car which struck and killed a female pedestrian.

There are no allegations that the accident was caused by any wrongdoing on the part of the Respondent.

However, the Respondent left the scene of the accident and later lied to the police in an effort to cover-up his involvement in the accident.

The Respondent was subsequently convicted by trial of the crime of Leaving the Scene of an Accident, a Class E felony.

The Hearing Committee determines unanimously (3-0) that the Respondent's post-accident behavior, i.e., leaving the scene of an accident and lying to the police in an effort to cover-up his involvement in the accident, evidences a moral unfitness to practice the profession and that his license to practice medicine in the State of New York should be REVOKED.

ORDER

IT IS HEREBY ORDERED:

1. The Respondent's license to practice medicine in New York State is hereby REVOKED.

2. 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: *10-4*, 2000
10/4/00, New York



STEVEN GRABIEC, M.D.
Chairperson

JOHN MORTON, M.D.
MR. JAMES DUCEY

APPENDIX I

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

IN THE MATTER
OF
CHARLES STEWART, M.D.

COMMISSIONER'S
ORDER
AND
NOTICE OF
HEARING

TO: CHARLES STEWART, M.D.
8 Birchwood Drive
Port Jefferson Station, New York 11787

CHARLES STEWART, M.D.
Department of Pediatrics
SUNY
Stony Brook, New York 11794

The undersigned, Antonia C. Novello, M.D., M.P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that CHARLES STEWART, M.D., has been found guilty of committing an act constituting a felony under New York state law, in the Supreme Court of the County of Suffolk, State of New York.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, CHARLES STEWART, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Public Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 16th day of August, 2000 at 10:00 am in the forenoon at Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, and at such other adjourned dates, times, and places as the committee may

EXHIBIT

direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. Such evidence or sworn testimony shall be 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 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. A summary of the Department of Health Hearing Rules is enclosed. 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.

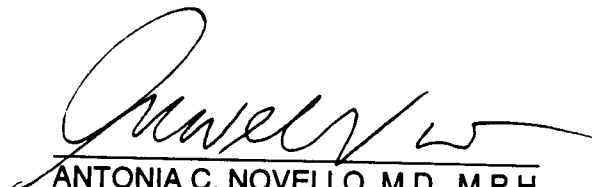
The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180, (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE REVOKED OR SUSPENDED, AND/OR THAT YOU MAY BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY IN THIS MATTER.

DATED: Albany, New York

July 27, 2000



ANTONIA C. NOVELLO, M.D., M.P.H.
Commissioner

Inquiries should be addressed to:

Robert Bogan
Assistant Counsel
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180
(518) 402-0820

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

**IN THE MATTER
OF
CHARLES STEWART, M.D.**

**STATEMENT
OF
CHARGES**

CHARLES STEWART, M.D., the Respondent, was authorized to practice medicine in New York state on November 10, 1986, by the issuance of license number 168584 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 27, 2000, in the Supreme Court of the County of Suffolk, State of New York, Respondent was found guilty of Leaving the Scene of an Accident as an E felony and was sentenced to five (5) years probation, to pay a \$5,000.00 fine and \$155.00 surcharge, and one (1) year revocation of his New York State Driver's License.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by reason of having been convicted of committing an act constituting a crime under New York State law, in that Petitioner charges:

1. The facts in paragraph A.

DATED: *July 24*, 2000
Albany, New York

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