



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

October 21, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mindy Hoffer, M.D.
527 Third Avenue
Suite 106
New York, New York 10016

Marcia E. Kaplan, Esq.
Associate Counsel
New York State Department of Health
Bureau of Adjudication
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

EFFECTIVE DATE 10/28/93

RE: In the Matter of Mindy Hoffer, M.D.

Dear Dr. Hoffer and Ms. Kaplan:

Enclosed please find the Determination and Order (No. BPMC-93-168) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

New York State Department of Health
Office of Professional Medical Conduct
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 than 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), "(t)he 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.

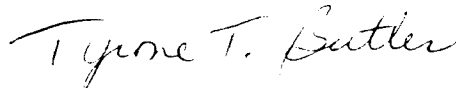
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Corning Tower -Room 2503
Empire State Plaza
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.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:rg
Enclosure

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

-----X
IN THE MATTER ;
OF ;
MINDY HOFFER, M.D. ;

HEARING COMMITTEE'S
FINDINGS OF FACT,
CONCLUSIONS,
DETERMINATION
AND ORDER

NO. BPMC-93-168
-----X

A notice of Referral Proceeding and Statement of Charges, both dated June 24, 1993, were served upon the Respondent, **MINDY HOFFER, M.D.** **THEA GRAVES PELLMAN** (Chair), **DONNA B. O'HARE, M.D.**, and **BENJAMIN WAINFELD, M.D.**, 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. **GERALD H. LIEPSHUTZ**, Department of Health Hearing Officer, served as the Administrative Officer. A hearing was held on August 4, 1993. The Department of Health appeared by **Marcia E. Kaplan, Esq.**, Associate Counsel. The Respondent appeared Pro Se. Evidence was received, the Respondent was sworn and heard, and a transcript of this proceeding was made.

After consideration of the entire record, the Hearing Committee issues its Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). That statute provides for an expedited hearing where 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 or another jurisdiction, or upon a prior administrative adjudication, or upon having had other disciplinary action taken concerning a license to practice medicine regarding conduct which would amount to professional misconduct, if committed in New York. The scope of this expedited hearing is limited by Public Health Law Section 230(10)(p) 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)(d) (First Specification) in that she had her license to practice medicine suspended in Massachusetts resulting from conduct which, if committed in New York State, would constitute professional misconduct pursuant to New York Education Law Section 6530(7).

FINDINGS OF FACT

The following Findings of Fact were made unanimously (3-0) 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 was considered and rejected in favor of the cited evidence.

1. Respondent was authorized to practice medicine in New York State on March 4, 1987 by the issuance of license number 169435 by the New York State Education Department. She is currently registered with the New York State Education Department to practice medicine during the period January 1, 1993 through December 31, 1994 from 527 Third Avenue, Suite 106, New York, New York 10016 (Ex. 2).

FIRST SPECIFICATION

2. On or about December 16, 1992 after a hearing, the Massachusetts Board of Registration in Medicine (MA Board) issued a Final Decision and Order on Summary Suspension which rendered a final disposition of the summary suspension of the Respondent's license to practice medicine in effect since August 10, 1992. The MA Board suspended Respondent's license to practice medicine in Massachusetts indefinitely, until such time as a final hearing is held on the Statement of Allegations, upon finding that Respondent is mentally impaired for the practice of medicine and poses an

immediate and serious threat to the public health, safety or welfare.

The MA Board issued the Final Decision and Order on Summary Suspension after disciplinary action was instituted by service on August 11, 1992 of a Motion for Summary Suspension and Order of the MA Board against Respondent, incorporating a Statement of Allegations charging Respondent with professional misconduct in violation of M.G.L. C. 112, sec. 5(d) and 243 CMR 1.03(5)(a) 4; practicing medicine while her ability to practice is impaired by alcohol, drugs, physical instability, or mental instability (Ex. 3A, 3B and 3C).

3. The conduct resulting in the suspension of Respondent's Massachusetts medical license, if committed in New York State, would have constituted professional misconduct under New York Education Law Section 6530, (McKinney 1992): Sec. 6530(7), i.e. practicing the profession while impaired by alcohol, drugs, physical disability or mental disability (Ex. 4).

4. Respondent was not willing to fully disclose her past or current psychiatric evaluations (T. 55-57, 60-63).

5. Respondent admits that she is not capable of caring for patients at the present time (T. 43-44).

CONCLUSIONS

The following conclusions were made pursuant to the Findings of Fact herein. All conclusions resulted from a unanimous vote (3-0) of the Hearing Committee.

FIRST SPECIFICATION

This Specification is sustained. The Respondent had her medical license suspended after disciplinary action was instituted by another state resulting from conduct which, if committed in New York State, would constitute professional misconduct in New York State (Findings of Fact 2-3 herein). Therefore, the elements of New York Education Law Section 6530(9)(d) have been proven.

DETERMINATION AND ORDER

The Hearing Committee, pursuant to its Findings of Fact and Conclusions herein, unanimously determines that Respondent's license to practice medicine in the State of New York should be revoked. Respondent admits that she is not capable of caring for patients. The record also discloses that the treatment received by Respondent as a psychiatric patient has been inadequate and disjointed. Respondent's unwillingness to fully disclose her current psychiatric evaluation leaves the Hearing Committee with

no independent means by which to adequately determine her current mental status.

IT IS HEREBY ORDERED:

THAT, PURSUANT TO Section 230-a(4) of the Public Health Law of the State of New York, Respondent's license to practice medicine in this state is revoked.

**DATED: West Hempstead, New York
October 18, 1993**


THEA GRAVES PELLMAN, CHAIR

**DONNA B. O'HARE, M.D.
BENJAMIN WAINFELD, M.D.**

**TO: MINDY HOFFER, M.D.
527 THIRD AVENUE
SUITE 106
NEW YORK, NEW YORK 10016**

**MARCIA E. KAPLAN, ESQ.
ASSOCIATE COUNSEL
NEW YORK STATE DEPARTMENT OF HEALTH
BUREAU OF ADJUDICATION
5 PENN PLAZA - SIXTH FLOOR
NEW YORK, NEW YORK 10001-1810**

APPENDIX I

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: MINDY HOFFER, M.D. : PROCEEDING
: :
-----X

TO: MINDY HOFFER, M.D.
P.O. Box 410-175 527 Third Avenue Suite 106
Cambridge, MA New York, N.Y. 10016

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 4th day of August, 1993 at 10:00 o'clock in the forenoon of that day at 5 Penn Plaza, 6th 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.

PLAINTIFF'S
DEFENDANT'S
COMPANY'S
DEPARTMENT'S
PETITIONER'S for identification 8/4/93
RESPONDENT'S in evidence MC
DATE 8/4/93 REPORTER _____
STERLING REPORTING SERVICE, INC.

EXHIBIT 1

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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: NANCY MASSARONI, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before July 26, 1993

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before July 26, 1993 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 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.

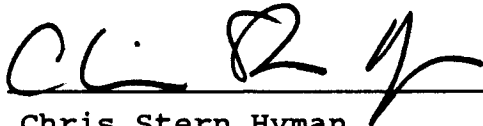
The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

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

June 24, 1993



Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Marcia E. Kaplan
Associate Counsel
212 613-2615

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

-----X
IN THE MATTER : STATEMENT
OF : OF
MINDY HOFFER, M.D. : CHARGES
-----X

MINDY HOFFER, M.D., the Respondent, was authorized to practice medicine in New York State on March 4, 1987 by the issuance of license number 169435 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine during the period January 1, 1993 through December 31, 1994 from 527 Third Avenue, Suite 106, New York, N.Y. 10016.

FIRST SPECIFICATION

HAVING A MEDICAL LICENSE SUSPENDED
AFTER DISCIPLINARY ACTION WAS
INSTITUTED BY ANOTHER STATE

1. Respondent is charged with professional misconduct within the meaning of New York Educ. Law Sec. 6530(9)(d) (McKinney Supp. 1993), in that she had her license to practice

medicine suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically:

On or about December 16, 1992, after a hearing, the Massachusetts Board of Registration in Medicine (MA Board) issued a Final Decision and Order on Summary Suspension which rendered a final disposition of the summary suspension of the Respondent's license to practice medicine, in effect since August 10, 1992. The MA Board suspended Respondent's license to practice medicine in Massachusetts indefinitely, until such time as a final hearing is held on the Statement of Allegations, upon finding that Respondent is mentally impaired for the practice of medicine and poses an immediate and serious threat to the public health, safety or welfare. The MA Board issued the Final Decision and Order on Summary Suspension after disciplinary action was instituted by service on August 11, 1992 of a Motion for Summary Suspension and Order of the MA Board against Respondent, incorporating a Statement of Allegations charging Respondent, inter alia with professional misconduct in violation of M.G.L. c. 112, sec. 5(d) and 243 CMR 1.03(5)(a) 4, practicing medicine while her ability to practice is impaired by alcohol, drugs, physical instability, or mental instability.

The conduct resulting in the suspension of Respondent's Massachusetts medical license, if committed in New York State, would have constituted professional misconduct under New York Educ. Law Section 6530, (McKinney 1992), as follows: Sec. 6530(7), i.e. practicing the profession while impaired by alcohol, drugs, physical

alcohol, drugs, physical disability or
mental disability.

DATED: New York, New York

June 24, 1993

A handwritten signature in black ink, appearing to read "C. Stern Hyman", written over a horizontal line.

CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

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

_____ X
IN THE MATTER OF :
MINDY HOFFER, M.D. : AFFIDAVIT OF SERVICE
:
:
_____ X

STATE OF NEW YORK)
COUNTY OF New York) SS:

David L. Cohen, being duly sworn, states:

1. I am over eighteen years of age and am not a party to the above captioned proceeding.

2. I am employed by the New York State Department of Health's Office of Professional Medical Conduct as a Supv. Medical Conduct Investigator

3. I served the annexed Notice of Referral Proceeding upon Mindy Hoffer by going to 5 Penn Plaza New York, N.Y. on June 28, 1993, at approximately 5:20 a.m. p.m. and handing said person a true copy thereof.

4. A description of the person so served is as follows:
Approx. Age: 35; Approx. Weight: 130 lbs; Approx. Height: 5'4";
Sex: female; Skin Color: white; Hair Color: brown;
Other identifying characteristics: glasses

David L. Cohen
SIGNATURE

DAVID K. TREMARY
Notary Public, State of New York
No. 31-4718432
Qualified in New York County 94
Commission Expires May 28 1994

Sworn to before me
on this 6 day of
July, 1993
David K. Tremary
NOTARY PUBLIC