



# 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

October 19, 1992

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

Seward Boyd, Jr., M.D.  
71 The Circle  
Glen Head, New York 11545

**RE: In the Matter of Seward Boyd, Jr., M.D.**

Dear Ms. Kaplan and Dr. Boyd:

Enclosed please find the Determination and Order (No. BPMC-92-87) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

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 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 (p), 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.

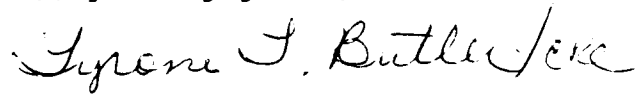
The notice of review served on the Administrative Review Board should be forwarded to:

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:crc  
Enclosure

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

-----X  
IN THE MATTER : DETERMINATION  
OF : AND  
SEWARD BOYD, JR., D.O. : ORDER  
-----X

ORDER NO. BPMC-92-87

A Notice of Hearing and Statement of Charges, both dated August 20, 1992, were served upon the Respondent, Seward Boyd, Jr., D.O. **THEA GRAVES PELLMAN (Chair), ROBERT J. O'CONNOR, M.D., and EDWARD C. ZAINO, 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. **LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. A hearing was held on October 1, 1992. The Department of Health appeared by Marcia E. Kaplan, Esq., Associate Counsel. The Respondent did not appear in person and was not represented by counsel. 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**

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 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 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, Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). A copy of the Notice of Referral Proceeding and Statement of Charges 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. Seward Boyd, Jr., D.O., hereinafter Respondent, was authorized to practice medicine in New York State on March 12, 1987, by the issuance of license number 169521 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 through December 31, 1992 from 71 The Circle, Glen Head, New York 11545. (Pet. Ex. #2).

2. On September 4, 1985 and again on February 4, 1988, Respondent was found guilty of unlawfully engaging in the practice of medicine in the State of Ohio without previously obtaining appropriate certification. In addition, on or about September 10, 1986, Respondent was convicted upon a plea of guilty to the attempted trafficking of drugs in the State of Ohio. Each of these convictions resulted in the imposition of a sentence of imprisonment. (Pet. Ex. #4).

3. By an Order of the Commissioner of Education of the State of New York (No. 9066), dated August 11, 1989, Respondent was found guilty of professional misconduct based upon a prior criminal conviction in Ohio. Respondent's medical license was suspended for five years, with one year of active suspension. The remaining four years of suspension were stayed, with Respondent placed on probation. (Pet. Ex. #2).

4. On November 15, 1991, after a hearing, Respondent's medical license was revoked by the Hawaii Board of Osteopathic Examiners (hereinafter "Hawaii Board") upon its finding him guilty of professional misconduct, in that Respondent procured a license through misrepresentation or deceit by his failure to disclose his prior criminal convictions which had resulted in the imposition of a jail sentence as well as his denial of the existence of these convictions on his application for license in Hawaii, in violation of Hawaii Revised Statutes Section 460-12(7). (Pet. Ex. #4).

5. The Hawaii Board also found that Respondent failed to report disciplinary action taken against his license in another jurisdiction by his failure to make a timely report of a disciplinary action which was brought against him by the State of New York, subsequent to his licensure in the state of Hawaii, in violation of Hawaii Revised Statutes Section 460-12(14). (Pet. Ex. #4).

6. On February 11, 1991, Respondent surrendered his Maryland medical license after notice that the Maryland Board of Physician Quality Assurance (hereinafter "Maryland Board") had voted to summarily suspend his license pursuant to State Gov't. Code Ann. Section 10-405 and to charge him with misconduct under the Maryland Medical Practice Act (hereinafter "the Act") and Health Occ. Code Ann. Section 14-504. (Pet. Ex. #3).

7. In the Letter of Surrender, Respondent admitted that his decision to surrender his medical license was prompted by his desire to avoid summary suspension under State Gov't. Code Ann. Section 14-405, and to avoid being charged with having fraudulently or deceptively obtained or attempted to obtain a license; being guilty of unprofessional conduct in the practice of medicine; being convicted of or pleading guilty or nolo contendere with respect to a crime involving moral turpitude; having willfully made or filed a false report or record in the practice of medicine, and being disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state for an act that would be

grounds for disciplinary action, pursuant to the Act., Health Occ. Code Ann. Section 14-504. (Pet. Ex. #3).

8. Respondent admitted that grounds existed for disciplinary action, including unprofessional conduct in the practice of medicine under Section 14-504(a)(3) and being convicted of or pleading guilty or nolo contendere with respondent to a crime involving moral turpitude, under former Section 14-504(6). (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 met its burden of proof. The preponderance of the evidence clearly demonstrates that Respondent was disciplined by the Hawaii Board because he falsified his applications for licensure in Hawaii. In addition, Respondent surrendered his license in Maryland after he was informed that he faced the summary suspension of his Maryland license. He failed to inform these jurisdictions regarding prior criminal convictions, as well as the prior disciplinary proceeding in New York. Therefore, Respondent fraudulently obtained medical licenses in Hawaii and Maryland. In addition, his submission of fraudulent licensure applications constitutes the filing of false reports.



Based on the above, the Hearing Committee concluded that Respondent's conduct would constitute violations of Education Law Sections 6530(1) (obtaining the license fraudulently) and 6530(21) (willfully making or filing a false report). Therefore, the Hearing Committee voted to sustain the First and Second Specifications.

#### **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 medical license should be revoked. 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.

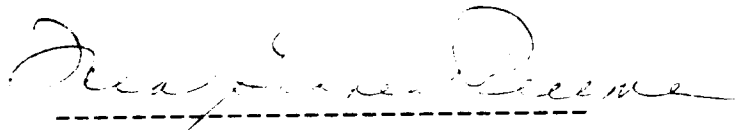
Respondent has repeatedly demonstrated that he lacks the moral integrity that is central to the practice of medicine. His criminal convictions for practicing medicine without a license in Ohio, combined with fraudulently obtaining medical licenses in Hawaii and Maryland, demonstrate a consistent pattern of lies and misrepresentations. His fraudulent conduct continued, even while on probation for professional misconduct in New York. It is evident that Respondent cannot be rehabilitated. Therefore, revocation is the only realistic sanction.

**ORDER**

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

1. The First and Second Specifications, as set forth in the Statement of Charges (Petitioner's Exhibit #1) are **SUSTAINED**, and
2. Respondent's license to practice medicine in New York State is hereby **REVOKED**.

DATED: Albany, New York  
*December 15, 1992*



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**THEA GRAVES PELLMAN (Chair)**

Robert J. O'Connor, M.D.  
Edward C. Zaino, M.D.

TO: Marcia E. Kaplan, Esq.  
Associate Counsel  
New York State Department of Health  
5 Penn Plaza - 6th Floor  
New York, New York 10001

Seward Boyd, Jr., D.O.  
71 The Circle  
Glen Head, New York 11545

**APPENDIX I**

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

-----X  
: IN THE MATTER : NOTICE OF  
: OF : REFERRAL  
: SEWARD BOYD, JR., D.O. : PROCEEDING  
: :  
-----X

TO: SEWARD BOYD, JR., D.O.  
71 The Circle  
Glen Head, New York 11545

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. 1992, as amended by ch. 37, Laws of 1992) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 1st day of October, 1992 at 1:00 o'clock in the afternoon 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.

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 Larry Storch, Administrative Law Judge, New York State Department of Health, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, as well as the Department of Health attorney indicated below, on or before September 21, 1992 .

You may file a written answer, brief, and affidavits with the Committee. Seven copies of all papers you wish to submit must be filed with Judge Storch at the address indicated above on or before September 21, 1992 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 Judge Storch 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  
August 20, 1992



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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

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IN THE MATTER : STATEMENT  
OF : OF  
SEWARD BOYD, JR., D.O. : CHARGES

-----X

SEWARD BOYD, JR., D.O., the Respondent, was authorized to practice medicine in New York State on March 12, 1987 by the issuance of license number 169521 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 through December 31, 1992 from 71 The Circle, Glen Head, New York 11545.

FIRST SPECIFICATION

1. Respondent is charged with professional misconduct within the meaning of New York Educ. Law Section 6530(9)(b) (McKinney Supp. 1992) in that he has 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, specifically:



On November 15, 1991, after a hearing, Respondent's medical license was revoked by the Hawaii Board of Osteopathic Examiners (Hawaii Board) upon its finding him guilty of professional misconduct, in that Respondent procured a license through misrepresentation or deceit by his failure to disclose his prior criminal convictions which had resulted in the imposition of a jail sentence and his denial of the existence of these convictions on his application for license in Hawaii, in violation of Hawaii Revised Statutes section 460-12(7), and that Respondent failed to report disciplinary action taken against his license in another jurisdiction by his failure to make a timely report of the disciplinary action which was brought against him by the State of New York subsequent to his licensure in the state of Hawaii, in violation of Hawaii Revised Statutes Section 460-12(14).

This conduct, if committed in New York state, would constitute professional misconduct under N.Y. Education Law Sections 6530(1), i.e. obtaining the license fraudulently.

#### SECOND SPECIFICATION

1. Respondent is charged with professional misconduct within the meaning of New York Educ. Law Section 6530(9)(d) (McKinney Supp. 1992) in that he surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically:

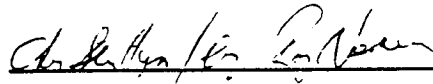
On February 11, 1991, Respondent surrendered his Maryland medical license after notice that on November 28, 1990 the Maryland Board of Physician Quality Assurance (Maryland Board) had voted, after an investigation of his medical practice, to summarily suspend his license pursuant to State Gov't Code Ann. Section 10-405 and to charge him with misconduct under the Maryland Medical Practice Act (the Act), Health Occ. Code Ann. Section 14-504. In the Letter of Surrender, Respondent admitted that his decision to surrender his medical license was prompted by his desire to avoid summary suspension under State Gov't. Code Ann. Section 14-405, and to avoid being charged under the Act., H.O. Section 14-504, with having fraudulently or deceptively obtained or attempted to obtain a license; being guilty of . . . unprofessional conduct in the practice of medicine; being convicted of or pleading guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; having willfully made or filed a false report or record in the practice of medicine; and being disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state . . . for an act that would be grounds for disciplinary action. Respondent admitted that the basis for summary suspension and charges against him would include the results of the investigation, as recited in the Surrender. Respondent admitted that grounds existed for disciplinary action, including guilt of . . . unprofessional conduct in the practice of medicine under Section 14-504(a)(3) and being convicted of or pleading guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside, under former Section 14-504(6).

The conduct resulting in the surrender, if committed in New York State, would

constitute professional misconduct under New York Educ. Law Section 6530, as follows: Section 6530(1), i.e. obtaining the license fraudulently; and/or Section 6530(9)(a)(iii), i.e. being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law; and/or Section 6530(21), i.e. willfully making or filing a false report; and/or Section 6530(9)(b), i.e. 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.

DATED: New York, New York

5/20/92



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Chris Stern Hyman  
Counsel  
Bureau of Professional  
Medical Conduct