



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., Dr.P.H.
Commissioner

PUBLIC

February 11, 2003

Dennis P. Whalen
Executive Deputy Commissioner

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

^A
Tadeusz J. Skowron, M.D.
16 Williamsbridge Lane
Avon, Connecticut 06001

^A
Tadeusz J. Skowron, M.D.
50 Ridgefield Avenue, Suite 317
Bridgeport, Connecticut 06610

Robert Bogan, Esq.
Paul Robert Maher, Esq.
NYS Department of Health
Office of Professional
Medical Conduct
433 River Street, Suite 303
Troy, New York 12180-2299

Joyce A. Lagnese, Esq.
Danaher, Tedford, et al
21 Oak Street
Hartford, Connecticut 06106

^{A.}
RE: In the Matter of Tadeusz J. Skowron, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-039) 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.

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.

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 cursive script, appearing to read "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:djh
Enclosure

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

COPY

IN THE MATTER

OF

TADEUSZ J. SKOWRON, M.D.

DETERMINATION

AND

ORDER

BPMC NO. 03-39

A hearing was held on January 23, 2003, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated October 11, 2002, were served upon the Respondent, Tadeusz J. Skowron, M.D. Hrusikesh Parida, M.D., Chairperson, Eleanor Kane, M.D., and William McCafferty, Esq., 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. John Wiley, Esq., Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by Donald P. Berens, Jr., Esq., General Counsel, by Robert Bogan, Esq., and Paul Robert Maher, Esq., of Counsel. The Respondent appeared in person and was represented by Joyce A. Lagnese, Esq., of Danaher, Tedford, Lagnese & Neal, 21 Oak Street, Hartford, Connecticut 06106.

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 when 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 State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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)(b) and (d). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:

None

For the Respondent:

Tadeusz J. Skowron, M.D.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to 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.

1. Tadeusz ^{A.} Skowron, M.D., the Respondent, was authorized to practice medicine in New York State on May 15, 1987, by the issuance of license number 170129 by the New York State Education Department (Petitioner's Ex. 4).

2. On May 21, 2002, the Connecticut Medical Examining Board ("Connecticut Board"), by a Memorandum Decision ("Connecticut Decision"), placed the Respondent's license on five years probation with terms and conditions, required him to pay a \$10,000.00 civil penalty, and required him to complete successfully 34 hours of continuing medical education. The Connecticut Board concluded that the Respondent failed to meet the applicable standard of care in the treatment of two patients. Regarding the first patient, the Connecticut Board found that the Respondent did not adequately evaluate the patient's condition, failed to conduct a complete examination, failed to ensure necessary diagnostic testing, and failed to refer the patient to a specialist when needed. Regarding the second patient, the Connecticut Board found that the Respondent failed to perform a rectal examination that was called for, given the patient's symptoms, failed to ensure that necessary diagnostic testing was performed, thus delaying the diagnosis of the patient's lung cancer, failed to refer the patient to a pulmonologist in a timely manner, thereby allowing the cancer to metastasize untreated, and failed to obtain written consent for a treatment requiring such consent. (Department Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to:

- New York Education Law Section 6530(3) - "Practicing the profession with negligence on more than one occasion;"
- New York Education Law Section 6530(4) - "Practicing the profession with gross negligence on a particular occasion;"
- New York Education Law Section 6530(5) - "Practicing the profession with incompetence on more than one occasion;" and

New York Education Law Section 6530(6) - "Practicing the profession with gross incompetence;..."

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(b) by 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..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having disciplinary action taken 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..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The dispute in this hearing is a narrow one. The Petitioner contended in the Statement of Charges that the acts described in the Connecticut Decision would constitute, had they occurred in New York State, four types of professional misconduct pursuant to Education Law Section 6530: negligence on more than one occasion (Section 6530[3]), gross negligence (Section 6530[4]), incompetence on more than one occasion (Section 6530[5]) and gross incompetence (Section 6530[6]). The Respondent did not challenge this contention, but, instead, only sought a less stringent penalty than the penalty recommended by the Petitioner. The Petitioner seeks a suspension of the

Respondent's New York license to practice medicine lasting until the Respondent successfully completes his probation in Connecticut. The Respondent seeks a period of probation on terms like those imposed by the Connecticut Board. The Respondent requested that such probation commence when and if the Respondent returns to the practice of medicine in New York State prior to the completion of his probation in Connecticut. The Respondent noted that the Connecticut Board saw no need to impose a severe sanction and suggested that this Hearing Committee should follow Connecticut's lead.

The Petitioner's proposed penalty is more commensurate with the professional misconduct in this case than the Respondent's proposal. The findings in the Connecticut Decision, particularly regarding the second patient, S.M., demonstrate serious problems with the quality of medical care provided by the Respondent. Regarding S.M., the Connecticut Decision describes mismanagement and inaction in the diagnosis and treatment of the patient's lung cancer that constitutes not merely negligence and incompetence, but gross negligence and gross incompetence. The Respondent's failure to order diagnostic testing when needed and to refer the patient to a pulmonologist upon making the diagnosis of lung cancer allowed the lung cancer to metastasize untreated and caused an unnecessary deterioration of the patient's condition.

The Respondent offered no mitigating circumstances regarding the treatment of either patient. His evidence regarding the quality of medical care he provides was limited to testimony that no other patient had ever made a complaint of medical negligence against him. He testified that he is in compliance with the probation requirements of the Connecticut Decision and that he would comply with any probation requirements imposed in New York State.

Given the seriousness of the Respondent's professional misconduct, the Hearing Committee will impose the sanction sought by the Petitioner. The fact that the Connecticut Board chose to impose a less severe sanction is not binding on this Hearing Committee, which has the authority and the duty to reject any proposed sanction that the Committee believes is insufficient to protect the people of New York State.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine is suspended until the Respondent provides to the Petitioner's Office of Professional Medical Conduct documentation that he has successfully completed his term of probation pursuant to the Connecticut Decision.
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: Middletown, New York
February 5, 2003

Hrusikesh Parida
Hrusikesh Parida, M.D.
Chairperson

Eleanor Kane, M.D.
William McCafferty, Esq.

APPENDIX I

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

IN THE MATTER

OF
A.
TADEUSZ J. SKOWRON, M.D.
CO-02-09-4534-A

NOTICE OF
REFERRAL
PROCEEDING

A.
TO: TADEUSZ J. SKOWRON, M.D.
16 Williamsbridge Lane
Avon, CT 06001

A.
TADEUSZ J. SKOWRON, M.D.
50 Ridgefield Avenue
Suite 317
Bridgeport, CT 06610

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 21st day of November 2002, at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. 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 that 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, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON.

TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before November 12, 2002.


Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before November 12, 2002, 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 the 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: Albany, New York
October 11, 2002


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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER
OF
^ATADEUSZ J. SKOWRON, M.D.
CO-02-09-4534-A

STATEMENT
OF
CHARGES

^ATADEUSZ J. SKOWRON, M.D., the Respondent, was authorized to practice medicine in New York state on May 15, 1987, by the issuance of license number 170129 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 21, 2002, the State of Connecticut, Connecticut Medical Examining Board, (hereinafter "Connecticut Board"), by a Memorandum of Decision, (hereinafter "Connecticut Decision"), placed Respondent's license to practice medicine on five (5) years probation with terms and conditions and required him to pay a \$10,000.00 civil penalty and to successfully complete thirty four (34) hours of Continuing Medical Education, based on failure to meet the applicable standard of care, in that he failed to appropriately evaluate a patient's condition, failed to conduct a complete examination, failed to ensure appropriate diagnostic testing, failed to appropriately refer a patient to a medical specialist, and regarding another patient, failed to perform a rectal examination, failed to perform appropriate diagnostic tests, failed to ensure that appropriate diagnostic testing was performed thus delaying the diagnosis of the patient's cancer, failed timely to refer the patient to a pulmonologist allowing the cancer to metastasize untreated, and failed to obtain written consent.

B. On or about August 20, 2002, the State of Connecticut, Department of Public Health, Bureau of Regulatory Services (hereinafter, also "Connecticut Board"), by a Consent Order (hereinafter "Connecticut Order"), modified the terms of payment of the payment of the Connecticut Decision set forth in Paragraph A above.

C. The conduct resulting in the Connecticut Board disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530 (3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than one occasion);

and/or

4. New York Education Law §6530 (6) (gross incompetence).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by 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, in that Petitioner charges:


1. The facts in Paragraphs A, B, and/or C.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken 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:

2. The facts in Paragraphs A, B, and/or C.

DATED: *Oct. 11*, 2002
Albany, New York


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