



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

PUBLIC

June 7, 1999

Dennis P. Whalen
Executive Deputy Commissioner

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Charles Thomas Steinke, M.D.
FPC – Allenwood
Route 15
P.O. Box 1000
Montgomery, Pennsylvania 17752

Mark Fantauzzi, Esq.
NYS Department of Health
Corning Tower – Room 2509
Empire State Plaza
Albany, New York 12237

Alan Stutman, Esq.
50 Court Street – Suite 501
Brooklyn, New York 11201

RE: In the Matter of Charles Thomas Steinke, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.99-123) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

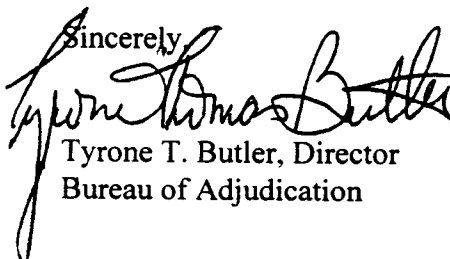
All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

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,

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mla
Enclosure

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

COPY

-----X
IN THE MATTER : DETERMINATION
OF :
CHARLES THOMAS STEINKE, M.D. : AND
: ORDER
-----X

ORDER #99-123

A Notice of Summary Hearing, dated April 26, 1999 and a Commissioner's Summary Order and Statement of Charges, both dated March 17, 1999, were served upon the Respondent, Charles Thomas Steinke, M.D. **ARSENIO AGOPOVICH, M.D. (Chair), HRUSIKESH PARIDA, M.D., and STEPHEN WEAR, Ph.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. The Department of Health appeared by Mark T. Fantauzzi, Esq., Assistant Counsel. The Respondent failed to appear in person and was not represented by Counsel.¹ 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.

¹ Respondent was represented by Alan Stutman, Esq., for the purposes of requesting an adjournment of the proceedings. Following notification to Counsel of the Hearing Committee's denial of the adjournment, there was no further contact with Mr. Stutman.

STATEMENT OF CASE

Petitioner has charged Respondent with seven specifications of professional misconduct. Six of the specifications arose out of Respondent's conviction, based upon a plea of guilty, to conspiring to defraud the United States of America. The seventh specification arose out of Respondent's failure to repay Health Education Assistance Loans. A copy of the Notice of Hearing and Statement of Charges is attached to this Determination and Order in Appendix I. Pursuant to N.Y. Public Health Law § 230(12)(b), Respondent's license was thereafter summarily suspended by issuance of a Summary Order by the Executive Deputy Commissioner of Health.

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. Charles Thomas Steinke, M.D. (hereinafter, "Respondent"), was authorized to practice medicine

in New York State by the issuance of license number 176283 by the New York State Education Department on September 22, 1988. (Pet. Ex. #3).

2. On October 23, 1997, Respondent was indicted by the Office of the United States Attorney for the Southern District of New York and was charged with, among other things, the crime of conspiring to defraud the United States of America in violation of Title 18 of the United States Code, section 1341 (frauds and swindles) and section 1343 (fraud by wire, radio or television). (Pet. Ex. #6).

3. On September 18, 1998, Respondent pleaded guilty to having conspired to defraud the United States of America, as set forth in the indictment. In pleading guilty, Respondent expressly admitted to having knowingly allowed his provider number to be used by his employer for the purpose of the submission of false billings to various private insurance companies. Respondent admitted further that although he knew that the funds being obtained by the use of his provider number were being obtained improperly and fraudulently, he did not report these facts to the proper authorities.

(Pet. Ex. #7).

4. On February 2, 1999, Respondent was convicted of conspiring to defraud the United States of America in violation of Title 18 of the United States Code, section 371. Respondent's conviction is a felony under federal law. (Pet. Ex. #4).
5. Respondent failed to repay his Health Education Assistance Loan, in the amount of \$211,333.63 plus interest in the sum of \$5,909.35 and \$21,703.00 costs and disbursements. A default judgement was entered in the United States District Court for the Eastern District of New York on January 31, 1996. (Pet. Ex. #8).

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 Petitioner has sustained its' burden of proof with respect to the majority of the charges raised against Respondent.

Respondent was charged with seven specifications alleging professional misconduct within the meaning of Education Law §6530. Six of the specifications concern Respondent's

criminal conviction for conspiring to defraud the government through wire and mail fraud. The Committee unanimously concluded that the preponderance of the evidence demonstrates that Respondent was convicted of committing a crime under federal law. Consequently, the Committee sustained the First specification. (Education Law §6530(9)(a)(ii)). Moreover, by allowing his provider number to be used for the purpose of filing fraudulent insurance claims, Respondent willfully failed to comply with applicable statutes governing the practice of medicine in violation of Education Law §6530(16). (Third Specification).

By allowing the submission of false insurance claims for payment, Respondent intentionally misrepresented his treatment of his patients for the purpose of financial gain. The Hearing Committee concluded that Respondent's conduct constituted the fraudulent practice of medicine in violation of Education Law § 6530(2) (Fourth Specification) as well as demonstrating his moral unfitness to practice the profession in violation of Education Law § 6530(20). (Fifth Specification). The Committee further sustained the Sixth Specification (making and filing false reports in violation of Education Law § 6530(21)), based upon the fraudulent insurance claims submitted as part of the criminal conspiracy.

The Petitioner also charged Respondent with professional misconduct in violation of Education Law §

6530(9)(c), alleging that his criminal conviction was equal to being found guilty in an adjudicatory proceeding of violating a federal statute. However, this section of the law is intended to discipline physicians following an adjudicatory proceeding at the administrative level in a state or federal forum. Criminal convictions are more properly considered under section 6530(9)(a). Accordingly, the Committee voted to dismiss the Second Specification.

The evidence clearly established that Respondent defaulted on substantial education loans made to finance his medical education. This constitutes professional misconduct pursuant to Education Law § 6530(42). As a result, the Hearing Committee voted to sustain the Seventh Specification.

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 license to practice medicine as a physician in New York State 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.

The evidence clearly established that Respondent

conspired to defraud various insurance companies by allowing his provider number to be used for the submission of fraudulent insurance claims. This crime was directly related to his practice of medicine. Although Respondent may not have been the principal architect of the criminal scheme, he willingly and knowingly participated in the fraud for a significant period of time once he became aware of the fraudulent claims (Petitioner's Exhibits ## 5 and 7). The evidence also clearly established that Respondent failed to repay his educational loans and failed to defend himself when the government sued for payment. Respondent failed to submit any evidence, either through written submissions or counsel, which might mitigate the sanction to be imposed.

Respondent has demonstrated that he is not morally fit to practice the profession of medicine. Revocation is the only sanction which will adequately protect the people of this state. Each one of the specifications sustained would warrant revocation of Respondent's license. Taken together, they present a compelling case for revocation.

ORDER

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

1. The First, Third, Fourth, Fifth, Sixth and Seventh Specifications of professional misconduct, as set

forth in the Statement of Charges (Petitioner's Exhibit # 1) are **SUSTAINED**;

2. The Second Specification of professional misconduct is **DISMISSED**;

3. Respondent's license to practice medicine as a physician in New York State be and hereby is **REVOKED** commencing on the effective date of this Determination and Order;

4. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Troy, New York
June 7, 1999

Arsenio Agosovich

ARSENIO AGOSOVICH, M.D. (CHAIR)

HRUSIKESH PARIDA, M.D.
STEPHEN WEAR, Ph.D.

TO: Mark T. Fantauzzi, Esq.
Assistant Counsel
New York State Department of Health
Corning Tower Building - Room 2509
Empire State Plaza
Albany, New York 12237-0032

Charles Thomas Steinke, M.D.
FPC - Allenwood
Route 15
P.O. Box 1000
Montgomery, Pennsylvania 17752

Alan Stutman, Esq.
50 Court Street - Suite 501
Brooklyn, New York 11201

APPENDIX I

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



-----X
IN THE MATTER : NOTICE
OF : OF
CHARLES THOMAS STEINKE, M.D. : SUMMARY HEARING
-----X

TO: Charles Thomas Steinke, M.D.
FPC - Allenwood
Route 15
P.O. Box 1000
Montgomery, Pennsylvania 17752

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. 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 1st day of June, 1999, at 10:00 in the forenoon of that day at the Office For Professional Medical Conduct, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (518-402-0748), and at such other adjourned dates, times and places as the committee may direct.

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. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in

order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (518-402-0748), 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. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(c) 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 date of the hearing. Any Charge and Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such 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. 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.

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 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 BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO THE OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
April 26, 1999


PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to:

Mark T. Fantauzzi
Assistant Counsel
Division of Legal Affairs
Bureau of Professional
Medical Conduct
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237-0032
(518) 473-4282

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

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IN THE MATTER : STATEMENT
OF : OF
CHARLES THOMAS STEINKE, M.D. : CHARGES

-----X

CHARLES THOMAS STEINKE, M.D., the Respondent, was authorized to practice medicine in New York State on September 22, 1988, by the issuance of license number 176283 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On October 23, 1997, Respondent was indicted by the Office of the United States Attorney for the Southern District of New York and was charged with, among other things, the crime of conspiring to defraud the United States of America in violation of Title 18 of the United States Code, section 1341 (Frauds and swindles) and section 1343 (Fraud by wire, radio or television).
- B. On September 18, 1998, Respondent pleaded guilty to having conspired to defraud the United States of America as set forth in the indictment mentioned in paragraph "1", above. In pleading guilty Respondent expressly admitted to having knowingly allowed his provider number to be used by his employer for the purpose of the submission of false billings

to private insurance companies. Respondent admitted further that although he knew that the funds being obtained by the use of his provider number were being obtained improperly and fraudulently, he did not report these facts to the proper authorities.

- C. On February 2, 1999, Respondent was convicted of conspiring to defraud the United States of America in violation of Title 18 of the United States Code, sections 1341 and 1343, respectively. Respondent's conviction is a felony under federal law.
- D. Respondent has failed to pay his Health Education Assistance Loan which is in an approximate amount exceeding \$250,000.00 and is in default with respect to this loan.

**FIRST SPECIFICATION
CONVICTION OF A CRIME UNDER FEDERAL LAW**

Respondent is charged with professional misconduct in violation of New York Education Law section 6530(9)(a)(ii) by reason of his having been convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraphs A, B, C, and D.

**SECOND SPECIFICATION
FINDING OF GUILT FOR VIOLATION OF FEDERAL STATUTE**

Respondent is charged with professional misconduct in violation of New York Education Law section 6530(9)(c) by reason of his having been found guilty in an adjudicatory proceeding of violating a federal statute when the violation would constitute professional misconduct pursuant to Education Law section 6530, in that Petitioner charges:

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

**THIRD SPECIFICATION
FAILURE TO COMPLY WITH LAW GOVERNING THE PRACTICE
OF MEDICINE**

Respondent is charged with professional misconduct in violation of New York Education Law section 6530(16) by reason of his having wilfully or grossly negligently failed to comply with federal, state, or local laws, rules, or regulations governing the practice of medicine in that Petitioner alleges:

1. The facts in Paragraphs A, B, C, and D.

**FOURTH SPECIFICATION
FRAUDULENT PRACTICE OF MEDICINE**

Respondent is charged with professional misconduct in violation of New York Education Law section 6530(2) by reason of his having practiced the profession of medicine fraudulently, in that Petitioner charges:

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

**FIFTH SPECIFICATION
CONDUCT EVIDENCING MORAL UNFITNESS**

Respondent is charged with professional misconduct in violation of Education Law section 6530(20) by his having engaged in conduct evidencing moral unfitness to practice medicine in that Petitioner charges:

1. The facts in paragraphs A, B, C, and D.

**SIXTH SPECIFICATION
MAKING AND FILING A FALSE REPORT**

Respondent is charged with professional misconduct in violation of Education Law section 6530(21) by his having wilfully made or filed a false report, and/or by his having failed to file a report required by law or by the Department of Health or the Education Department, and/or by his having induced another person to make or file a false report, in that Petitioner charges:

1. The facts in paragraphs A, B, and C.


**SEVENTH SPECIFICATION
FAILURE TO PAY EDUCATIONAL LOANS**

Respondent is charged with professional misconduct in violation of New York Education Law section 6530(42) by reason of his having failed to pay his Health Education Assistance Loan, in

that Petitioner charges:

1. The facts in paragraph D.

March 17, 1999
Albany, New York


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