



# 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*

May 1, 2000

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

Robert Bogan, Esq.  
Paul Robert Maher, Esq.  
NYS Department of Health  
433 River Street – 4<sup>th</sup> Floor  
Troy, New York 12180

Barry Gold, Esq.  
Thuillez, Ford, Gold & Johnson, LLP  
90 State Street  
Albany, New York 12207

Bruce Alan Miller, M.D.  
901C Pacific Avenue  
Virginia Beach, Virginia 23451

### **RE: In the Matter of Bruce Alan Miller, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.00-134) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

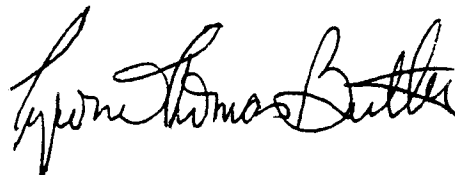
The notice of review served on the Administrative Review Board should be forwarded to:

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' and 'B'.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

IN THE MATTER  
OF  
BRUCE ALAN MILLER, M.D.

DECISION  
AND  
ORDER

BPMC-00-134

A Commissioner's Order and Notice of Hearing dated, March 7, 2000 and a Statement of Charges dated March 7, 2000, were served upon the Respondent, **BRUCE ALAN MILLER, M.D.**

**FRANK E. IAQUINTA, M.D.**, Chairperson, **MARGERY W. SMITH, M.D.** and **STEPHEN E. 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on April 19, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 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 **THUILLEZ FORD GOLD & JOHNSON, LLP**, 90 State Street, Albany, New York 12207, by **BARRY GOLD, ESQ.**, of counsel.

Evidence was received and transcripts of these proceeding 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)(iii). A copy of the Commissioner's Order and Notice of Hearing and the Statement of Charges is attached to this Determination and Order as Appendix 1.

## WITNESSES

For the Petitioner:

None

For the Respondent:

Bruce Alan Miller, M.D., the Respondent

## FINDINGS OF FACT

The following Findings Fact were made after a review of the entire record in this matter. Numbers in parenthesis 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 stated.

1. **BRUCE ALAN MILLER, M.D.**, the Respondent, was authorized to practice medicine in New York State on September 19, 1989, by the issuance of license number 180052 by the New York State Education Department. (Pet's. Ex. 3)
  
2. On January 13, 1999 in the Circuit Court of the City of Norfolk, Virginia, Respondent was found guilty of Possession of Heroin, in violation of Virginia Code §18.2-250 and sentenced to five (5) years incarceration, two (2) years suspended, five (5) years probation, and thereafter, on or about, Mary 26, 1999, the balance of the incarceration was suspended. (Pet's. Ex. 4)
  
3. By a Commissioner's Order, dated March 7, 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 Bruce Alan Miller, M.D. has been found guilty of committing an act constituting a felony under the law of another jurisdiction which if

committed in the state of New York, would have constituted a felony under New York State law and has further determined that the continued practice of medicine in the state of New York by Bruce Alan Miller, M.D., the Respondent, constitutes imminent danger to the health of the people of this state."

The Commissioner "ORDERED, pursuant to New York Public Health Law Section 230(12)(b), that effective immediately, Bruce Alan Miller, 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 New York Public Health Law Section 230(12)." (Pet's. Ex. 1)

### **VOTE OF THE HEARING COMMITTEE**

#### **SPECIFICATION**

Respondent is charged with professional misconduct by reason of his having violated New York Education Law §6530(9)(a)(iii) by reason of having been convicted of committing a crime under the laws of another jurisdiction and which, if committed in New York state, would have constituted a crime under New York state law.

VOTE: SUSTAINED (3-0)

## HEARING COMMITTEE DELIBERATIONS

The record in this case indicates that the Respondent has a history of drug addiction since at least 1987.

In October, 1991, the Respondent surrendered his New York medical license as an impaired physician. He has since been in and out of numerous treatment programs without success.

On January 13, 1999, he was found guilty of possession of heroin by the Circuit Court of the City of Norfolk, Virginia.

The Respondent testified that he is currently enrolled in a methadone treatment program in Virginia. He also testified that he had a license to practice medicine in the state of Florida, but that he did not know the current status of his Florida license.

After listening to the Respondent's testimony the Hearing Committee has the impression that the Respondent has been wandering aimlessly for the past 9 years and has shown no responsibility for his life.

Given the evidence in this case, the Hearing Committee finds no valid reason for not revoking the Respondent's license to practice medicine in New York state.



## ORDER

### **IT IS HEREBY ORDERED THAT:**

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

The Hearing Committee is aware of the fact that the Respondent can apply for the restoration of his license after three years and recommends to the licensing authority that no consideration be given to such an application unless the Respondent makes a showing to the satisfaction of a committee of professional conduct of the state board for profession medical conduct that he is no longer incapacitated for the active practice of medicine.

2. This **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified mail.

DATED: April 28, 2000  
*Fabe Success, New York*

*Frank E. Iuinta M.D.*  
FRANK E. IUINTA, M.D., Chairperson

MARGERY W. SMITH, M.D.  
STEPHEN E. WEAR, PH.D.

**APPENDIX I**

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

-----X

IN THE MATTER  
OF  
Bruce Alan Miller, M.D.

COMMISSIONER'S  
ORDER AND  
NOTICE OF HEARING

-----X

TO: Bruce Alan Miller, M.D.  
901C Pacific Avenue  
Virginia Beach, Virginia 23451

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 Bruce Alan Miller, M.D. has been found guilty of committing an act constituting a felony under the law of another jurisdiction which if committed in the state of New York, would have constituted a felony under New York State law and has further determined that the continued practice of medicine in the state of New York by Bruce Alan Miller, M.D., the Respondent, constitutes imminent danger to the health of the people of this state.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, Bruce Alan Miller, 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 19th day of April, 2000 at 10:00 am in the forenoon at the Hedley Park Plaza, 5th Floor, 433 River Street, Troy, New York, 12180, and at such other adjourned dates, times, and places as the committee may 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. 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 BE 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  
*MARCH 7*, 2000

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

Inquiries should be directed to:

Robert Bogan  
Assistant Counsel  
NYS Department of Health  
Division of Legal Affairs  
Hedley Park Place  
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

-----X  
IN THE MATTER  
OF  
BRUCE ALAN MILLER, M.D.  
STATEMENT  
OF  
CHARGES  
-----X

Bruce Alan Miller, M.D., the Respondent, was authorized to practice medicine in New York state on September 19, 1989, by the issuance of license number 180052 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On January 13, 1999 in the Circuit Court of the City of Norfolk, Respondent was found guilty of Possession of Heroin, in violation of Virginia Code §18.2-250 and sentenced to five (5) years incarceration, two (2) years suspended, and five (5) years probation, and, thereafter, on or about, May 26, 1999, the balance of the incarceration was suspended.

**SPECIFICATION**

Respondent is charged with professional misconduct by reason of his having violated New York Education Law §6530(9)(a)(iii) by reason of having been convicted of committing a crime under the laws of another jurisdiction and which, if committed in New York state, would have constituted a crime under New York state law, in that the Petitioner charges:

1. The facts in paragraphs A.

DATED: *Mar. 7*, 2000  
Albany, New York



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