



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

March 7, 1995

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

Ira Mark Levin, M.D.
504 W. 24th Street
Austin, Texas 78705

Ira Mark Levin, M.D.
Del Valley Center
3614 Bill Price Road
Del Valley, Texas 78617

RECEIVED
MAR 07 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

RE: In the Matter of Ira Mark Levin, M.D.

Effective Date: 03/14/95

Dear Ms. Kaplan and Dr. Levin:

Enclosed please find the Determination and Order (No. 95-48) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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 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 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.

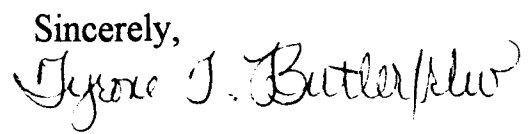
The notice of review served on the Administrative Review Board should be forwarded to:

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

Sincerely,

A handwritten signature in black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large, looping initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

-----X
IN THE MATTER : DETERMINATION
OF :
IRA MARK LEVIN, M.D. : ORDER
-----X

BPMC-95-48

A Notice of Referral Proceeding and Statement of Charges, both dated January 11, 1995, were served upon the Respondent, Ira Mark Levin, M.D. **EDMUND O. ROTHSCHILD, M.D. (Chair), ANN SHAMBERGER, and JOHN L.S. HOLLOMAN, JR., 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, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Marcia E. Kaplan, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on February 14, 1995. 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 §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 §6530(9)(a)(ii) and §6530(9)(b). 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. Ira Mark Levin, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on August

6, 1991 by the issuance of license number 186535 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice. (Pet. Ex. #2).

2. Respondent's New York State medical license has been inactive since May 18, 1993 pursuant to a temporary surrender of license and registration under Public Health Law §230(13)(a). Respondent surrendered his license because he was incapacitated for the active practice of medicine due to chemical dependency. (Pet. Ex. #3).

3. On or about June 29, 1994, Respondent was convicted after a plea of guilty in the United States District Court, Western District of Texas, Austin Division, of Possession of Controlled Substances, in violation of 21 U.S.C. §844, in that on or about April 20, 1994, Respondent unlawfully and knowingly possessed Demerol, Dilaudid and Morphine. (Pet. Ex. #4A, #4C, #4D).

4. On or about September 8, 1994, Respondent was sentenced as follows: a \$5000.00 fine and five years probation, with special conditions of probation to include that he reside for a period of four months commencing immediately in McCabe Center and observe the facility's rules, that he provide the U.S. Probation Officer access to any requested financial information, that he participate in a program approved by the Probation Officer for treatment of narcotic addiction or drug dependency which may include testing and examination to determine if the defendant has reverted to the use of drugs or alcohol; and that

he not practice medicine in any jurisdiction without prior approval from the Court. (Pet. Ex. #4B, #4C, #4D).

5. On or about September 30, 1994, the Texas State Board of Medical Examiners (hereinafter the "Texas Board"), issued an Agreed Order indefinitely suspending Respondent's Texas medical license, and setting forth special terms to govern any attempt by Respondent at reinstatement of the license after a period of one year. The Order was issued upon finding Respondent guilty of violating the Medical Practice Act of Texas, V.A.C.S., Article 4495b, as follows: Section 3.08(3) [intemperate use of alcohol or drugs that, in the opinion of the Board, could endanger the lives of patients]; 3.08(4) [unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public]; 3.08(4)(A) [committing any act that is in violation of the laws of the State of Texas if the act is connected with the physician's practice of medicine]; 3.08(4)(E) [prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed]; 3.08(4)(F) [prescribing, administering, or dispensing in a manner not consistent with public health and welfare dangerous drugs as defined by Chapter 483, Health and Safety Code, controlled substances scheduled in Chapter 481, Health and Safety Code, or controlled substances scheduled in the Federal Comprehensive Drug Abuse and Prevention and Control Act of 1970, 21 U.S.C.A. §801 et. seq. (Public Law 91-513). (Pet. Ex. #5).

6. The Texas Board found Respondent guilty based upon

the following facts: that Respondent wrote prescriptions for controlled substances for his own use; his plea of guilty to a related misdemeanor charge, and his attendance at a 28 day inpatient treatment program and half-way house program for substances abusers. (Pet. Ex. #5).

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 sustained its burden of proof in this matter. The preponderance of the evidence demonstrates that Respondent was convicted, upon a plea of guilty, to unlawful possession of Demerol, Dilaudid and Morphine - a crime under Federal law. Consequently, the Committee voted to sustain the First Specification.

The record also clearly established that the Texas Board indefinitely suspended Respondent's Texas medical license. The Texas Board found Respondent guilty of professional misconduct based upon the conduct underlying his Federal criminal conviction. The Hearing Committee further concluded that Respondent's conduct would, if committed in New York State, constitute professional misconduct in violation of Education Law §6530(3) [negligence on more than one occasion], and §6530(35) [ordering of excessive treatment not warranted by the condition of the patient]. Accordingly, the Hearing Committee voted to sustain the Second 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 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.

On May 18, 1993, Respondent temporarily surrendered his New York medical license because he was incapacitated for the practice of medicine due to a chemical dependency. While his license was inactive, Respondent went to Texas, where he was subsequently convicted of unlawfully possessing Schedule II controlled substances (Demerol, Dilaudid and Morphine) for his own use. It is clear that Respondent has a serious drug addiction which renders him unfit to practice medicine. The Hearing Committee unanimously determined that revocation is the only appropriate sanction under the circumstances.

APPENDIX I

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: IRA MARK LEVIN, M.D. : PROCEEDING
: :
-----X

TO: IRA MARK LEVIN, M.D.
Del Valley Center
3614 Bill Price Road 504 W. 24th St. Suite 327
Del Valley, TX 78617 Austin, TX 78705

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. 1995) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1995). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 14th day of February 1995 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.

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: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before February 3, 1995.

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 February 3, 1995, 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.

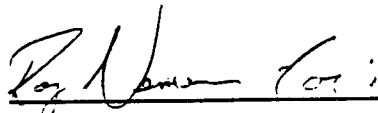
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior 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
Jan 11, 1995



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
IRA MARK LEVIN, M.D. : CHARGES
-----X

IRA MARK LEVIN, M.D., the Respondent, was authorized to practice medicine in New York State on August 6, 1991 by the issuance of license number 186535 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. His license has been inactive since May 18, 1993 pursuant to a temporary surrender of license and registration under N.Y. Pub. Health Law Sec. 230(13)(a) (McKinney Supp. 1995).

FIRST SPECIFICATION

**HAVING BEEN CONVICTED OF AN ACT
CONSTITUTING A CRIME UNDER FEDERAL LAW**

1. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(a)(ii)

(McKinney Supp. 1995) in that he has been convicted of committing an act constituting a crime under federal law, specifically:

On or about June 29, 1994, the Respondent was convicted after a plea of guilty in the United States District Court, Western District of Texas, Austin Division, of Possession of Controlled Substances, in violation of 21 USC 844, in that on or about April 20, 1994, the Respondent unlawfully and knowingly possessed Demerol, Dilaudid and Morphine.

On or about September 8, 1994, the Respondent was sentenced as follows: a \$5000 fine and five years probation, with special conditions of probation to include that he reside for a period of four months commencing immediately in McCabe Center and observe the facility's rules, that he provide the U.S. Probation Officer access to any requested financial information, that he participate in a program approved by the Probation Officer for treatment of narcotic addiction or drug dependency which may include testing and examination to determine if the defendant has reverted to the use of drugs or alcohol; and that he not practice medicine in any jurisdiction without prior approval from the Court.

SECOND SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT BY THE TEXAS STATE BOARD OF MEDICAL EXAMINERS

2. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(b) (McKinney Supp. 1995) 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 or about September 30, 1994, the Texas State Board of Medical Examiners issued an Agreed Order indefinitely suspending Respondent's Texas medical license, and setting forth special terms to govern any attempt by Respondent at reinstatement of the license after a period of one year, upon finding Respondent guilty of violating the Medical Practice Act of Texas, V.A.C.S., article 4495b, as follows: Section 3.08(3), intemperate use of alcohol or drugs that, in the opinion of the board, could endanger the lives of patients; 3.08(4), unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public; 3.08(4)(A), committing any act that is in violation of the laws of the State of Texas if the act is connected with the physician's practice of medicine; 3.08(4)(E), prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed; and 3.08(4)(F), prescribing, administering, or dispensing in a manner not consistent with public health and welfare dangerous drugs as defined by Chapter 483, Health and Safety Code, controlled substances scheduled in Chapter 481, Health and Safety Code, or controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et. seq. (Public Law 91-513). The Board found Respondent guilty based upon the following facts: that Respondent wrote prescriptions for controlled substances for his own use; his plea of guilty to a related misdemeanor charge; and his attendance at a 28 day inpatient treatment program and half-way house program for substance abusers. These acts, if committed within New York state, would constitute professional misconduct under the laws of New York state as follows: Educ. Law Sec. 6530(3), practicing the profession with negligence on more than one occasion; and

6530(35), ordering of excessive treatment not warranted by the condition of the patient.

DATED: NEW YORK, NEW YORK
Jan 11, 1995

Chris Stern Hyman

CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct