



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

PUBLIC

April 26, 1999

Dennis P. Whalen  
*Executive Deputy Commissioner*

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Aurel Zoltan Schmidt, M.D.  
129 Malcolm Avenue  
Garfield, New Jersey 07026

Aurel Zoltan Schmidt, M.D.  
IMS Health  
100 Campus Road  
Totowa, New Jersey 07512

Aurel Zoltan Schmidt, M.D.  
20 Lawrence Drive  
Short Hills, New Jersey 07078

Robert Bogan, Esq.  
NYS Department of Health  
Hedley Park Place  
433 River Street, 4<sup>th</sup> Floor  
Troy, New York 12180-2299

**RE: In the Matter of Aurel Zoltan Schmidt, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.99-85) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

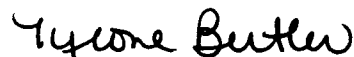
The notice of review served on the Administrative Review Board should be forwarded to:

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

**IN THE MATTER**  
  
**-OF-**  
  
**AUREL ZOLTAN SCHMIDT, JR.,**  
**M.D.**

DECISION  
AND  
ORDER  
OF THE  
HEARING  
COMMITTEE

BPMC ORDER  
NO. 99-85

**COPY**

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated October 28, 1998 which were served upon **AUREL ZOLTAN SCHMIDT, M.D.**, (hereinafter referred to as "Respondent"). **JOHN W CHOATE, M.D.**, Chairperson, **HOWARD SOHNEN, M.D.**, and **D. MARISA FINN**, 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. **JEFFREY W. KIMMER, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on March 17, 1999 at Hedley Park Place, Troy, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner" or "the Board") appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, Assistant Counsel, Bureau of Professional Medical Conduct. Respondent did not appear in person nor by counsel. Evidence was received. A transcript of these proceedings was made.

After consideration of the entire record, the Hearing Committee issues this Decision and Order.

## STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of Section 6530 (9) of the Education Law. In such cases, a licensee is charged with misconduct based upon prior professional disciplinary action or criminal conviction. The scope of this expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed by this state upon the licensee based solely upon the record of the previous conviction or discipline.

In the instant case, Respondent is charged with professional misconduct pursuant to the New York State Education Law, Section 6530 (9)(b) and (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 discipline was based, would, if committed in New York state would constitute professional medical conduct under the laws of New York State). The allegations in this proceeding and the underlying events are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

## FINDINGS OF FACT

The Committee adopts the factual statements set forth on pages one through three of the Statement of Charges (Appendix One) as its findings of fact and incorporates them herein.

## CONCLUSIONS WITH REGARD TO FACTUAL ALLEGATIONS SPECIFICATIONS AND PENALTY

Petitioner herein has proven by a preponderance of the evidence that Respondent was found guilty of medical misconduct by the duly authorized agency of the State of New Jersey. The medical

license of Respondent was "automatically suspended" by the State of New Jersey because Respondent was found to have positive findings for cannabinoids in a urine test. The urine test was conducted pursuant to a Consent Order issued by the State of New Jersey which arose from previous findings of substance abuse. Therefore, Petitioner has proven that Respondent was found guilty of improper professional conduct or professional misconduct in the State of New Jersey, wherein the acts cited would constitute clear violations of the standards of professional conduct in New York State.

The Committee finds that the acts established are quite egregious. Respondent was given a term of probation by his home state and chose to violate that probation. The respondent had a chance to exhibit his resolve to amend his conduct and he failed. Furthermore, and the committee unanimously feels his license should be revoked. Respondent did not have sufficient interest in this proceeding to appear. Respondent is a clear menace and a danger to the public and the committee unanimously feels his license should be revoked.

ORDER

WHEREFORE, Based upon the preceding facts and conclusions,

**It is hereby ORDERED that:**

1. The Factual allegations in the Statement of Charges (Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;


4. The license of Respondent to practice medicine in the state of New York is hereby **REVOKED**;

Furthermore, it is hereby **ORDERED** that;

5. This order shall take effect **UPON RECEIPT** by Respondent or her attorney or **SEVEN (7) DAYS** after mailing of this order by Certified Mail to Respondent or her attorney.

**Dated:**  
**Buffalo, New York**

4/22 1999

  
\_\_\_\_\_  
**JOHN W. CHOATE, M.D., Chairperson**  
**HOWARD SOHNEN, M.D.**  
**D. MARISA FINN**

TO:

**ROBERT BOGAN, ESQ.**

Assistant Counsel

Bureau of Professional Medical Conduct

Corning Tower

Albany, N.Y. 12237

**AUREL ZOLTAN SCHMIDT, JR., M.D.**

129 Malcolm Avenue

Garfield NJ 07026

APPENDIX ONE



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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
AUREL ZOLTAN SCHMIDT, M.D. : CHARGES

-----X

AUREL ZOLTAN SCHMIDT, M.D., the Respondent, was authorized to practice medicine in New York State on October 10, 1991 by the issuance of license number 187337 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 24, 1998 the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (hereinafter "New Jersey Board") entered an Order Of Automatic Suspension which "automatically suspended" Respondent's license to practice medicine. The New Jersey Board found, among other things, that random samples of the Respondent's urine showed low creatinine and low specific gravity and were positive for the presence of cannabinoids; that the presence of cannabinoids in urine is indicative of substance abuse and is most often associated with the use of marijuana; and that the confirmed positive urine screen demonstrating the presence of cannabinoids constitutes a violation of the Consent Order Restricting Licensure (hereinafter

"New Jersey Consent Order").

B. The New Jersey Consent Order referred to in Paragraph A above was entered into on or about November 19, 1997 by the Respondent and the New Jersey Board.

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

1. N.Y. Education Law Section 6530 (7) [practicing the profession while impaired]; and/or
2. N.Y. Education Law Section 6530 (8) [being dependent on or a habitual user of drugs]; and/or
3. N.Y. Education Law Section 6530 (29) [violating any term of probation or condition or limitation]; or

#### **SPECIFICATIONS**

##### **FIRST SPECIFICATION**

Respondent is guilty of violating N.Y. Education Law § 6530 (9) (b) by reason of 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 could, if committed in New York State, constitute professional misconduct under the laws of New York State, in that the Petitioner charges the following:

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

SECOND SPECIFICATION

Respondent is guilty of professional misconduct under N.Y. Education Law § 6530 (9) (d) by reason of his having had disciplinary action taken against her by a duly authorized professional disciplinary agency of another state, when 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 the Petitioner charges:

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

DATED: *February 16*, 1999  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct