



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

Dennis P. Whalen
Executive Deputy Commissioner

PUBLIC

January 7, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Vladimir Petar Shurlan, M.D.
7 Channing Street
Cambridge, Massachusetts 02138

Robert Bogan, Esq.
Paul Robert Mahar, Esq.
NYS Department of Health
Office of Professional
Medical Conduct
433 River Street, Ste 303
Troy, New York 12180

RE: In the Matter of Vladimir Petar Shurlan, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-05) 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 black ink, appearing to read "Tyrone T. Butler". The signature is fluid and cursive, with the first name being the most prominent.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:djh
Enclosure

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

IN THE MATTER
OF
**VLADIMIR PETAR
SHURLAN, M.D.,**

COPY

DETERMINATION

AND

ORDER

BPMC No. 03-05

A Notice of Referral Proceeding and Statement of Charges, both dated November 1, 2002, were served upon the Respondent, **VLADIMIR PETAR SHURLAN, M.D.** **ELEANOR KANE, M.D.**, Chairperson, **PREKASH C. SAHARIA, M.D.** and **JUDITH GLUSKO, R.N.**, 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. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on December 18, 2002, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent did not appear at the hearing in person or by an attorney, but did supply a document that was considered by the Hearing Committee.

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 where 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 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)(b) and (d), based upon actions allegedly constituting violations of subdivisions (2), (20) and (21). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: None

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 unless otherwise specified.

1. **VLADIMIR PETAR SHURLAN, M.D.**, the Respondent, was authorized to practice as a physician in New York State on April 9, 1992, by the issuance of license number 188705 by the New York State Education Department (Ex. 4).
2. On May 21, 2002, the Connecticut Medical Examining Board ("the Connecticut Board") accepted a Consent order previously agreed to by Respondent and the Director of the Connecticut Division of Health Systems Regulation, wherein Respondent admitted that he had falsely indicated on his license renewal application on June 15, 2001, that he had no disciplinary action pending by another state's licensure/certification authority. Pursuant to the Consent Order, Respondent agreed to the issuance of a license reprimand and payment of a \$500.00 civil penalty (Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the conduct resulting in the Connecticut Board's disciplinary actions against Respondent constitute misconduct under the laws of New York State, pursuant to New York Education Law §6530(9)(b) and (d), in that the conduct would have constituted misconduct under New York Education Law §6530(21) (making or filing a false report)¹ had it occurred in New York State.

¹ The Hearing Committee finds no basis in the Connecticut Order to support findings of practicing the profession fraudulently or moral unfitness to practice medicine, as charged by the Department.

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

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 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)

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had 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

It is noted at the outset that, although duly notified of the time and place of this hearing, Respondent elected not to attend in person or by counsel (see the letter from his attorney dated 12/9/02, included in Ex. A, and the representations of Mr. Bogan at the hearing). Respondent did file an answer to the charges, wherein he admitted to the factual basis for the Department's action. The only specific legal argument raised against the imposition of a sanction against him by New York State was that he "does not maintain a license to practice medicine in New York and therefore challenges the jurisdiction of the

State Board for Professional Medical Conduct.” (Ex. A). The evidence (Ex. 4), however, clearly establishes that Respondent does, in fact, currently have a medical license in New York State, and as a licensee, he is subject to the jurisdiction of the New York State professional disciplinary process (Public Health Law §230). Respondent is apparently confusing his lack of current registration (and payment of the attendant fees) with his possession of a license, which will only expire if he surrenders it or has it revoked.

The record in this case indicates, as noted above, that Respondent agreed to accept discipline by the Connecticut Board after he was charged with providing false information on his license renewal application regarding the pendency of disciplinary action against him by another state’s licensure/certification authority. By having had findings made against him and disciplinary action taken by another state’s licensing agency based upon conduct that would have constituted misconduct in New York, had it been committed here, Respondent is guilty of professional misconduct in New York State.

Accordingly, pursuant to Public Health Law Section 230(10)(p), the only issue remaining to be decided is the appropriate penalty to be imposed in this state. Respondent presented no evidence in mitigation of any sanction that might be imposed in this case. Accordingly, the Hearing Committee concludes that the appropriate penalty in this case is the issuance of a Censure and Reprimand, as set forth in the following Order.


ORDER

IT IS HEREBY ORDERED THAT:

1. A **CENSURE AND REPRIMAND** is hereby issued against the New York physician's license of **VLADIMIR PETAR SHURLAN, M.D.**.

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

DATED: Rhinebeck, New York
2 Jan, 2003



ELEANOR KANE, M.D.
Chairperson

PREKASH C. SAHARIA, M.D.
JUDITH GLUSKO, R.N.

APPENDIX 1

ORIGINAL



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

IN THE MATTER
OF
VLADIMIR PETAR SHURLAN, M.D.
CO-02-08-4174-A

NOTICE OF
REFERRAL
PROCEEDING

TO: VLADIMIR PETAR SHURLAN, M.D.
7 Channing Street
Cambridge, MA 02138

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 18th day of December 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 December 9, 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 December 9, 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

November 1, 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
VLADIMIR PETAR SHURLAN, M.D.
CO-02-08-4174-A

STATEMENT
OF
CHARGES

VLADIMIR PETAR SHURLAN, M.D., the Respondent, was authorized to practice medicine in New York state on April 9, 1992, by the issuance of license number 188705 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 21, 2002, the State of Connecticut, Department of Public Health, Bureau of Regulatory Services, Medical Examining Board (hereinafter "Connecticut Board"), by a Consent Order, (hereinafter "Connecticut Order"), Reprimanded Respondent's license to practice as a physician and imposed a \$500.00 civil penalty, based on Respondent's false answer on his State of Connecticut licensure renewal application that he had no disciplinary action pending by another state's licensure certification authority.

B. The conduct resulting in the Connecticut Board disciplinary action against Respondent would constitutes misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law 6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(20) (moral unfitness); and/or
3. New York Education Law §6530(21) (willfully making or filing a false report required by law or by the department of health or the education department).

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 and/or B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had 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 New York state, in that Petitioner charges:

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

DATED: *November 1*, 2002
Albany, New York


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