

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

IN THE MATTER
OF
MICHAEL ARTHUR SCHWARTZ, M.D.
PM-02-11-5910-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: MICHAEL ARTHUR SCHWARTZ, M.D.
P.O. Box 641120
Kenner, LA 70064-1120

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. 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 **MICHAEL ARTHUR SCHWARTZ, M.D.**, Respondent, licensed to practice medicine in New York state on December 15, 1998, by license number 212765, has been disciplined by a duly authorized professional disciplinary agency of another state, the Alabama State Board of Medical Examiners, Medical Licensure Commission of Alabama, (hereinafter "Alabama Board"), for acts which if committed in New York state would have constituted an imminent danger to the health of the people.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, **MICHAEL ARTHUR SCHWARTZ, M.D.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine. 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 of Professional Medical Conduct, on the 22nd day of January, 2004, at 10:00 am in the forenoon at Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 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, that 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

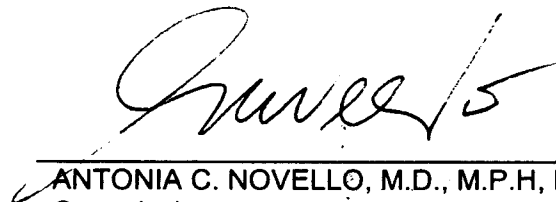
to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180 (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will 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 that 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 FOR THIS
MATTER.**

DATED: Albany, New York

December 15, 2003


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

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180
(518) 402-0828

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MICHAEL ARTHUR SCHWARTZ, M.D.
PM-02-11-5910-A

STATEMENT
OF
CHARGES

MICHAEL ARTHUR SCHWARTZ, M.D., the Respondent, was authorized to practice medicine in New York state on December 15, 1998, by the issuance of license number 212765 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 19, 2001, the Alabama State Board of Medical Examiners, Medical Licensure Commission of Alabama (hereinafter "Alabama Board"), by an Order (hereinafter "Alabama Order I"), directed Respondent to submit to a complete physical and comprehensive neuropsychological examination, including assessment of manual dexterity associated with possible rheumatoid arthritis and evaluation for chemical dependency, based on his refusal to accept a recommendation that he submit to random urine screens and that he be evaluated for possible impairment.

B. On or about September 5, 2002, the Alabama Board by an Order (hereinafter Alabama Order II"), indefinitely SUSPENDED Respondent's license to practice medicine and fined him \$5,000.00, based on immoral, unprofessional or dishonorable conduct and inability to practice medicine with reasonable skill and safety to patients by reason of excessive use of drugs, narcotics, alcohol, chemicals or other substance or as a result of physical condition.

C. The conduct resulting in the Alabama Board 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. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(7) (practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability);

3. New York Education Law §6530(8) (being a habitual abuser of alcohol, or being dependent on or a habitual abuser of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice);

4. New York Education Law §6530(15) (failing to comply with an order of the board);

5. New York Education Law §6530(20) (moral unfitness); and/or

6. New York Education Law §6530(21) (willfully making or filing a false report required by law or by the department of health or education department).

SPECIFICATION

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) 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, B, and/or C.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(d) by having his license to practice medicine suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

DATED: *Dec -15*, 2003
Albany, New York

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