



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Dennis P. Whalen
Executive Deputy Commissioner

January 27, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Timothy J. Mahar, Esq.
NYS Department of Health
Division of Legal Affairs
ESP Corning Tower – Room 2509
Albany, NY 12237

Carl E. Person, Esq.
Person & Reed
325 West 45th Street – Suite 201
New York, NY 10036-3803

RE: In the Matter of Gregory Doria, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 99-20) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 that reads "Tyrone Butler / m". The signature is written in a cursive style.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mla
Enclosure

IN THE MATTER
OF
GREGORY DORIA, M.D.

DETERMINATION
AND
ORDER

BPMC - 99-20

THEA GRAVES PELLMAN, Chairperson, WILLIAM K. MAJOR, JR., M.D., and CALVIN J. SIMONS, M.D., duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230 (1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230 (10) (e) and 230 (12) of the Public Health Law. ELLEN B. SIMON, ESQ., Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this Determination.

STATEMENT OF CHARGES

The Statement of Charges essentially charges the Respondent with professional misconduct by reason of having failed to comply with statute(s) governing the practice of medicine, by having committed fraud in the practice of medicine, by having failed to comply with an order of the Board for Professional Medical Conduct, and by evidencing moral unfitness to practice medicine.

The charges are more specifically set forth in the Statement of Charges, a copy of which is attached to and made a part of this Determination and Order.

SUMMARY OF THE PROCEEDINGS

Statement of Charges Dated:	September 11, 1998
Prehearing Conference:	October 8, 1998
Hearing Date:	October 21, 1998
Deliberation Dates:	November 18, 1998 December 2, 1998
Place of Hearing:	NYS Department of Health 5 Penn Plaza New York, New York
Petitioner Appeared By:	Henry M. Greenberg, Esq. General Counsel NYS Department of Health By: Timothy J. Mahar, Esq. Associate Counsel

Respondent Appeared By:

Person & Reid
325 West 45th Street -Suite 201
New York, New York 10036-3803
By: Carl E. Person, Esq.
Walter Reid, Esq.

WITNESSES

For the Department:

Daniel Crane, M.D.
Gene Roman
Brian Veprek

For the Respondent:

None

FINDINGS OF FACT

Numbers in parentheses refer to transcript pages or exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding. No conflicting evidence was presented.

1. GREGORY DORIA, M.D., the Respondent, was authorized to practice medicine in New York State on June 3, 1983, by the issuance of license number 154280 by the New York State Education Department [Dept.'s Exhibit (hereafter "Ex.") 2].
2. Respondent is currently licensed to practice medicine in New York until December 31, 1998 (Ex. 2).
3. Respondent is not and has never been licensed to practice medicine in the state of New Jersey (Ex. 5).
4. Respondent has not conducted a medical practice since February 1994, when he left a psychiatric residency program at the Bergen Pines County Hospital in Paramus, New Jersey [Transcript (hereafter "T.") pp. 202-203; Ex. 7, p. 40].
5. On March 22, 1995, Respondent and a woman who was with him were arrested at Room 16 of the Airport Motel in South Hackensack, New Jersey. Respondent was charged with possession of a weapon and of controlled dangerous substances (Ex. 3, p. 4; T. 231-232, 274-278).
6. Gene Roman, Chief of Police of the South Hackensack Police Department and Deputy Chief at the time of Respondent's 1995 arrest, testified that in the course of that arrest he watched his officers Brian Veprek and John Rizer search Respondent's car while it was parked outside Room 16 of the Airport Motel (T. 232, 262-264).
7. Detective Veprek testified that he searched Respondent's car only at South Hackensack Police headquarters, following both Respondent's arrest and his consent to the search (T. 281-282). Detective Veprek further testified that he found in the car, among other things, a large quantity of drugs in various forms that were not in their original containers and were mixed together (T. 309-312, 317-318; Ex. 3, pp. 23-26).
8. Detective Veprek further testified that he took some of the pills that he'd found during his search to a New Jersey pharmacist for identification (T. 313). He also testified that he took all the items that he found in the car to the New Jersey Police laboratory for identification (T. 314-315; Ex. 3, pp. 23-26).

9. The pharmacist determined that some of the pills that Detective Veprek gave him were controlled dangerous substances (Ex. 3, p. 9). The police laboratory identified some of the items submitted by Detective Veprek as controlled dangerous substances (Ex. 3, pp. 27-31).
10. At the hearing, no evidence was presented that Respondent was convicted in New Jersey or anywhere else of possession or storage of drugs of any kind.
11. No expert testimony on New Jersey law was offered at the hearing.
12. Respondent was a physician at Bergen Pines County Hospital between 1993 and February 1994 (Ex. 9).
13. Chief of Police Roman testified that Respondent told him that the woman he was with at the Airport Motel was Beth Spinali; he also testified that officer Rizer told him that Ms. Spinali was semiconscious when the officer entered her room at the motel (T. 233, 257).
14. Mr. Roman testified that, on the night of Respondent's arrest, Respondent told him that he was a physician at Bergen Pines hospital (T. 233). Upon further examination, however, Mr. Roman testified that he only assumed that Respondent was a physician at Bergen Pines at the time of his arrest (T. 246-247).
15. Detective Veprek testified that Respondent told him that he was a doctor at Bergen Pines hospital, and Mr. Veprek wrote in his report that Respondent told him that Beth Spinali had "just checked out of Bergen Pines and that she received a shot earlier in the day at the hospital" and that Respondent didn't know what type of medicine Ms. Spinali had been given (T. 276, lines 10-11; Ex. 3, p. 4).
16. Beth Spinali was later found to have had a blood alcohol level of 0.326 at the time of her arrest; Detective Veprek testified that when he later interviewed Ms. Spinali, she told him that she had been a patient at Bergen Pines hospital (T. 278).
17. On March 20, 1997, a Special Investigation Committee of the New York State Board for Professional Medical Conduct determined, pursuant to section 230 (7) of the Public Health Law, that Respondent "may be impaired by a physical and/or mental disability within the meaning of Public Health Law section 230 (7)" (Ex. 6). That Committee, by an amended order dated July 26, 1997, ordered Respondent to "appear and submit to an examination" by Daniel Crane, M.D., a board certified psychiatrist. The same order directed Respondent to appear and submit to an examination by a designated neurologist (Ex. 6; T. 197).
18. The amended order was served on Respondent on August 5, 1997 (Ex. 6).
19. A neurologic evaluation of Respondent was conducted, and it was determined that he had no neurologic impairment (stipulated by the parties; see paragraph D of the Statement of Charges, Ex. 1; T. 186; and Respondent's Proposed Findings of Fact and Conclusions of Law, p. 14, paragraph 59).
20. Respondent appeared for examination by Dr. Crane on February 10, 1998, to be evaluated pursuant to the Special Investigation Committee's amended order (Ex. A, paragraph E; T. 198). During that examination, on the advice of his attorney, who had accompanied him, Respondent refused to discuss with Dr. Crane the events of March 22, 1995 in South Hackensack, but he did promise to return to discuss the subject when circumstances permitted that (T. 198-200, 203-204).

21. During his interview with Dr. Crane, Respondent was very cooperative in every respect other than as to discussion of matters concerning the events of March 22, 1995 (T. 200, 202, 204).

22. Dr. Crane never submitted to the Office of Professional Medical Conduct any evaluation of Respondent, and he testified that in order to submit one he would have to discuss with Respondent the events of March 22, 1995 (T. 198-200).

23. Dr. Crane testified that Respondent should not now be practicing medicine (T. 214).

CONCLUSIONS

As to the facts, the Hearing Committee concludes as follows:

1. The testimony of Chief of Police Roman differs materially from that of Detective Veprek on where the search of Respondent's car occurred. Mr. Roman said that he watched Detective Veprek and Officer Rizer inspect the car outside the Airport Motel; Mr. Veprek insisted that he never searched the car until he had obtained Respondent's written consent once they were at police headquarters.

The Hearing Committee finds that this inconsistency about a fact so material to the charges at issue makes these witnesses' other testimony suspect. The Committee, therefore, finds the testimony of neither witness to be substantially credible.

2. With respect to charge A, in evidence are two order sheets from IDE Interstate Inc. that indicate that in 1993 Respondent ordered from IDE certain drugs and supplies (Ex. 3, pp. 33, 34). No evidence was presented that any of those items were the ones that Detective Veprek said that he found in Respondent's car on March 22, 1995, and no evidence was presented as to where the items inventoried by Detective Veprek came from. Neither was there any evidence of any conviction in New Jersey of drug possession or storage by Respondent.

If in fact controlled dangerous substances were found in Respondent's car in 1995, causing Respondent's arrest, the Hearing Committee finds it difficult to understand how, by December 1998, there apparently has been no adjudication of the related charges. As a result, and in view of the fact witnesses' contradiction, the Committee concludes that there is insufficient credible evidence to determine whether Respondent in fact did possess and/or store controlled dangerous substances in his car.

3. Further as to charges A through A3, since no expert testimony was presented as to what is the applicable New Jersey law and how the Committee is to apply it to the facts it finds, the Committee is unable to reach any conclusion as to Respondent's failure to comply with substantial provisions of that law.

4. As to charge B, both Chief of Police Roman and Detective Veprek testified that Respondent told them that he was a doctor at Bergen Pines hospital. In fact, from sometime in 1993 until February 1994, Respondent was a resident physician there as a participant in the hospital's psychiatric program. Neither officer stated that Respondent made it clear that at the time of his arrest he was on staff at Bergen Pines. It is possible that Respondent stated the fact of his having been a doctor there and simply allowed the officers to infer that he was currently there on staff, but the Hearing Committee does not find enough credible evidence to reach a determination as to Respondent's intent.

5. Further as to charge B, there is insufficient credible evidence for the Hearing Committee to determine exactly what Respondent and Beth Spinali were doing or where they had been on March 22, 1995 before their arrival at the Airport Motel. As we have stated, we found the testimony of the police officers to be not credible. It is possible that Ms. Spinali told Respondent that she had been treated at Bergen Pines hospital earlier on March 22nd and that Respondent simply gave that information to the police. Because

Ms. Spinali's blood alcohol level was so high at the time of the arrest, it is also possible that she might not have remembered where she had been earlier in the day or that she mistakenly believed that she had been given a shot at Bergen Pines. There is just not enough credible evidence to persuade the Committee as to what the facts are.

6. As to charge C, the Hearing Committee concludes that on July 26, 1997 a Special Investigative Committee of the New York State Board for Professional Medical Conduct ordered Respondent to be examined and evaluated by a neurologist and a psychiatrist pursuant to section 230 (7) of the Public Health Law (Ex. 6).

7. As to charge D, the Committee concludes that a neurologist examined and evaluated Respondent and found no neurologic impairment.

8. As to charge E, the Hearing Committee is concerned that although Dr. Crane testified that, at least until his psychiatric examination can be completed, Respondent should not now be practicing medicine, Dr. Crane failed to report that opinion to OPMC after his interview with Respondent on February 10, 1998. Apparently, he was not concerned enough about Respondent's continuing to be able to practice in the meantime to submit any report to OPMC at all. Because of the inconsistency between Dr. Crane's failure to report and his testimony, the Committee does not feel that it can accept that testimony as to Respondent's competence to practice.

Apart from his evaluation of Respondent's competence to practice, Dr. Crane also testified that except as to discussion of matters relating to the events of March 22, 1995, Respondent was fully cooperative in presenting himself for evaluation, in accordance with the Board's July 26, 1997 order. As to the events of March 22nd, 1995, Respondent's lawyer, who was with him at Dr. Crane's interview, had advised Respondent not to discuss them (T. 198-199).

It seems to the Hearing Committee that if Dr. Crane felt that he had learned enough from his interview to permit him to testify that Respondent should not be practicing medicine (even though the Committee does not find such testimony credible), Respondent did in fact substantially comply with the Board's order that Dr. Crane examine him. Moreover, Dr. Crane also testified that Respondent was willing to return for further evaluation when he could discuss the events of March 22, 1995 (T. 204).

9. Finally, as Respondent failed to testify at the hearing, the Hearing Committee understands that it may infer that had he testified and told the truth, his testimony would have supported the charges. In view of the paucity of other credible supporting evidence in this matter, however, the Committee has chosen not to make that negative inference.

VOTE OF THE HEARING COMMITTEE

In view of the foregoing, the Hearing Committee concludes as to the specifications and votes unanimously as follows:

FIRST SPECIFICATION:

Respondent is charged with professional misconduct under N.Y. Education Law 6530 (16) for having willfully or with gross negligence failed to comply with substantial provisions of state law governing the practice of medicine. This specification is **NOT SUSTAINED**.

SECOND AND THIRD SPECIFICATIONS:

Respondent is charged with professional misconduct under N.Y. Education Law 6530 (2) for having practiced the profession of medicine fraudulently. This specification is **NOT SUSTAINED**.

FOURTH SPECIFICATION:

Respondent is charged with professional misconduct under N.Y. Education Law 6530 (15) for having failed to comply with an order issued pursuant to subdivision seven of section 230 of the Public Health Law. This specification is **NOT SUSTAINED**.

FIFTH SPECIFICATION:

Respondent is charged with professional misconduct under N. Y. Education Law 6530 (20) for having engaged in conduct in the practice of medicine that evidences moral unfitness to practice medicine. This specification is **NOT SUSTAINED**.

DETERMINATION OF THE HEARING COMMITTEE

The Hearing Committee unanimously determines that the charges against Respondent should be **DISMISSED**.

ORDER

Based upon the foregoing, it is hereby ordered that:

The charges against Respondent are **DISMISSED**.

Dated: West Hempstead, New York
January 26, 1999


THEA GRAVES PELLMAN,
Chairperson

WILLIAM K. MAJOR, JR., M.D.
CALVIN J. SIMONS, M.D.

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

-----X

IN THE MATTER : STATEMENT
OF : OF
GREGORY S. DORIA, M.D. : CHARGES

-----X

GREGORY S. DORIA, M.D., the Respondent, was authorized to practice medicine in New York State on June 3, 1983 by the issuance of license number 154280 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1997, through December 31, 1998, with a registration address of 2118 83rd Street, Apt. 3, Brooklyn, N.Y. 11214.

FACTUAL ALLEGATIONS

A. On or about March 22, 1995, Respondent possessed and/or stored drugs in the trunk of his car, including controlled dangerous substances, at the Airport Motel, 636 Huyler Street, South Hackensack, New Jersey. The drugs stored in Respondent's car included those listed on Appendix A hereto. Some or all of said drugs were not stored in their original containers. Some or all of said drugs were commingled. Respondent's storage and/or possession of said drugs on March 22, 1995 constituted a willful and/or grossly negligent failure to comply with substantial provisions of the following provisions of New Jersey Law

governing the practice of medicine:

- 1) the failure to register with the New Jersey State Department of Health as a person who dispenses or who proposes to dispense controlled dangerous substances in violation of New Jersey Statutes Annotated §24:21-10;
- 2) the failure to possess controlled dangerous substances in their original containers in violation of New Jersey Statutes Annotated §24:21-18; and
- 3) knowingly keeping controlled dangerous substances in a vehicle in violation of New Jersey Statutes Annotated §24:21-21(6).

B. Respondent made the following statements to one or more members of the South Hackensack Police Department on March 22, 1995 at the Airport Motel:

- 1) that he was a "physician at Bergen Pines Hospital", and
- 2) that the semi-conscious woman in his company and who the Respondent proposed to treat in a motel room had been discharged from the Bergen Pines Hospital earlier that day where she had been injected with an unspecified drug.

In fact, Respondent knew that he had had no affiliation with Bergen Pines County Hospital since he withdrew from a residency program at that hospital in February, 1994. In fact, Respondent knew that the woman had not been treated at the Bergen Pines Hospital on March 22, 1995, or at any time in the weeks prior to that date.

C. On or about July 26, 1997, Respondent was ordered by a Special Investigative Committee of the New York State Board for Professional Medical Conduct (hereinafter the "Board") to undergo neurologic and psychiatric evaluations pursuant to Public Health Law §230(7).

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11/2/98

ed/

D. A neurologic evaluation of Respondent was conducted, and it was determined that no neurologic impairment was present.

E. On or about February 10, 1998, a portion of a psychiatric evaluation of Respondent was completed. Respondent has not completed the psychiatric evaluation, and therefore has not complied with this Board's order of ~~May 5~~^{July 26}, 1997.

(465) 11/17/98

SPECIFICATIONS

FIRST SPECIFICATION

FAILURE TO COMPLY WITH STATUTE GOVERNING THE PRACTICE OF MEDICINE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(16) by reason of his having willfully or with gross negligence failed to comply with substantial provisions of state laws governing the practice of medicine, in that Petitioner charges:

1. The facts in paragraphs A and A.1, and/or A and A.2, and/or A and A.3.

SECOND AND THIRD SPECIFICATIONS

FRAUD IN PRACTICE OF MEDICINE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(2) by reason of his having practiced the profession of medicine fraudulently, in that Petitioner charges:

2. The facts in paragraphs B and B.1.
3. The facts in paragraphs B and B.2

FOURTH SPECIFICATION

FAILURE TO COMPLY WITH A BOARD ORDER

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(15) by reason of his having failed to comply with an order issued pursuant to subdivision seven of section 230 of the Public Health Law, in that Petitioner charges:

4. The facts in paragraphs C and/or E.

FIFTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(20) by reason of his engaging in conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

5. The facts in paragraphs A and/or B and/or C and/or E.

DATED: *September 11*, 1998
Albany, New York

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