

DOH STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

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

Dennis P. Whalen
Executive Deputy Commissioner

June 5, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Leon Doyan, M.D.
3700 Galt Ocean Drive-Apt. 305
Ft. Lauderdale, Florida 33068

Karen Eileen Carlson, Esq.
NYS Department of Health
Corning Tower-Room 2503
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Leon Doyan, M.D.

Dear Dr. Doyan and Ms. Carlson:

Enclosed please find the Determination and Order (No. 97-126) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,

Handwritten signature of Tyrone T. Butler in black ink.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

CCPY

IN THE MATTER
OF
LEON DOYAN, M.D.

DETERMINATION
AND
ORDER

BPMC-97-126

A Notice of Referral Proceedings and Statement of Charges, both dated March 31, 1997 were served upon the Respondent, **LEON DOYAN, M.D.**

CHARLOTTE S. BUCHANAN, ESQ., Chairperson, **ANDREW J. MERRITT, M.D.** and **RAVENDER MAMTANI, 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. **MICHAEL P. McDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on May 14, 1997 at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **KAREN EILEEN CARLSON, ESQ.**, of Counsel. The Respondent failed to appear.

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 case, 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 a licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis 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.

All Hearing Committee findings were unanimous unless otherwise stated.

1. Leon Doyan, M.D., the Respondent, was authorized to practice medicine in New York State on August 1, 1972 by the issuance of license number 113386 by the New York State Education Department (Pet's. Exs. 1 and 3).

2. The State of Florida, Agency for Health Care Administration, Board of Medicine [hereafter "the Florida Board"], by Final Order dated November 8, 1995, found the Respondent guilty of unprofessional conduct in his care and treatment of a thirty-eight year old patient who was being seen for cosmetic surgery. The Board found that Respondent violated Florida Statutes §458.331(1)(k), (m), (n) and (t) (Pet's. Ex. 4).

3. More specifically, the Florida Board found that the Respondent made untrue representations to the patient; did not do the proposed liposuction as discussed with the patient; exercised undue influence on the patient; failed to keep adequate medical records of the treatment of the patient; and failed to practice medicine with that level of care, skill and treatment acceptable under similar circumstances (Pet's. Ex. 4).

4. The Florida Board suspended the Respondent's medical license for one year followed by a one year term of probation. The Respondent was also ordered to pay a fine in the amount of \$10,000 and pay restitution in the amount of \$500 (Pet's. Ex. 4).

5. In a second action, the Florida Board, by Final Order dated November 8, 1995, found the Respondent guilty of unprofessional conduct in his care and treatment of a female patient who was being seen for cosmetic surgery. The Board found that Respondent violated Florida Statutes §§ 458.331(1)(j), (m), and (t) (Pet's. Ex. 5).

6. More specifically the Florida Board found that the Respondent had engaged in sexual activity with the patient; had not acted within the standard of a reasonable, prudent physician in his treatment of the patient; and failed to maintain adequate records for the patient (Pet's. Ex. 5).

7. The Florida Board revoked Respondent's medical license in the state of Florida and fined him \$15,000 (Pet's. Ex. 5).

CONCLUSIONS

The conduct underlying the Florida Board's first finding of unprofessional conduct would, if committed in New York State, constitute professional misconduct under N.Y. Educ. law § 6530(2) (McKinney Supp. 1997) [practicing the profession fraudulently] and/or N.Y. Educ. law § 6530(32) (McKinney Supp. 1997) [failing to maintain adequate records].

The conduct underlying the Florida Board's second finding of unprofessional conduct would, if committed in New York state, constitute professional misconduct under N.Y. Educ. Law §6530 (20) (McKinney Supp. 1997) [moral unfitness to practice medicine] and/or N.Y.

Educ. law §6539(32) (McKinney Supp. 1997) [failing to maintain adequate records].

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. law §6530(9)(b) (McKinney Supp. 1997) by reason of his having been found guilty of 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.

VOTE: SUSTAINED (3-0)

SECOND SPECIFICATION

The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law § 6530(9)(b) (McKinney Supp. 1997) by reason of his having been found guilty of 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.

VOTE: SUSTAINED (3-0)

DETERMINATION OF THE HEARING COMMITTEE

The record in this case indicates that the State of Florida, Agency for Health Administration, Board of Medicine (Florida Board) brought two actions against the Respondent for serious violations constituting unprofessional conduct.

In the first action the Florida Board suspended the Respondent's medical license for one year, followed by a one year term of probation. The Respondent was also ordered to pay a fine in the amount of \$10,000 and to pay restitution in the amount of \$500.

In the second action, the Florida Board revoked the Respondent's medical license and fined him \$15,000.

The Respondent did not appear at the present hearing, either in person or by representative.

There are no mitigating circumstances to be considered by the Hearing Committee.

The Hearing Committee determines unanimously (3-0) that the Respondent's license to practice medicine in the State of New York should be **REVOKED**.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby

REVOKED.

2. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Albany, New York
4/27/97, 1997

Charlotte S. Buchanan
CHARLOTTE S. BUCHANAN, ESQ., Chairperson

ANDREW J. MERRITT, M.D.
RAVENDER MAMTANI, M.D.

TR

TO: Leon Doyan, M.D.
3700 Galt Ocean Drive - Apt. 305
Ft. Lauderdale, FL 33068

Karen Eileen Carlson, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Empire State Plaza
Corning Tower - Room 2503
Albany, New York 12237

APPENDIX I

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

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IN THE MATTER : NOTICE OF
OF : REFERRAL
LEON DOYAN, M.D. : PROCEEDING
-----x

TO: Leon Doyan, M.D.
Suite 100; 2817 E. Oakland Park Blvd.
Fort Lauderdale, Florida 33306

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 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 14th day of May, 1997 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 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, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, 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 May 1, 1997.

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 or 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 May 1, 1997 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
March 31, 1997

Peter D. Van Buren

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

Inquiries should be addressed to:

Karen Eileen Carlson
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2503
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
LEON DOYAN, M.D. : CHARGES

-----X

LEON DOYAN, M.D., the Respondent, was authorized to practice medicine in New York State on August 1, 1972 by the issuance of license number 113386 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1997, through December 1998, with a registration address of Suite 100, 2817 E. Oakland Park Boulevard, Fort Lauderdale, Florida, 33306.

FACTUAL ALLEGATIONS

1. The State of Florida, Department of Professional Regulation, Board of Medicine [hereafter "the Board"], by Final Order dated November 8, 1995, found Respondent guilty of unprofessional conduct in his care and treatment of a thirty-eight year old patient who was being seen for cosmetic surgery. The Board found that Respondent violated Florida Statutes §§ 458.331(1)(k), (m), (n) and (t).

2. More specifically, the Board found Respondent made untrue representations to the patient, did not do the proposed liposuction as discussed with the patient, exercised undue influence on the patient, failed to keep adequate medical records of the treatment of the patient and failed to practice medicine with that level of care, skill and treatment acceptable under similar circumstances.
3. The Board suspended Respondent's medical license for one year followed by a one year term of probation. Respondent was also ordered to pay a fine in the amount of \$10,000 and pay restitution in the amount of \$500.
4. The conduct underlying the Board's finding of unprofessional conduct would, if committed in New York state, constitute professional misconduct under N.Y. Educ. law § 6530(2) (McKinney Supp. 1997) [practicing the profession fraudulently] and/or N.Y. Educ. law § 6530(32) (McKinney Supp. 1997) [failing to maintain adequate records].
5. The Board in a second action, by Final Order dated November 8, 1995, found Respondent guilty of unprofessional conduct in his care and treatment of a female patient who was being seen for cosmetic surgery. The Board found that Respondent violated Florida Statutes §§ 458.331(1) (i), (m), and (t).

6. More specifically the Board found Respondent had engaged in sexual activity with the patient, had not acted within the standard of a reasonable, prudent physician in his treatment of the patient, and failed to maintain adequate records for the patient.
7. The Board revoked Respondent's medical license in the state of Florida and fined Respondent \$15,000.
8. The conduct underlying the Board's finding of unprofessional conduct would, if committed in New York state, constitute professional misconduct under N.Y. Educ. law § 6530(20) (McKinney Supp. 1997) [moral unfitness to practice medicine] and/or N.Y. Educ. law § 6530(32) (McKinney Supp. 1997) [failing to maintain adequate records].

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. law § 6530(9)(b) (McKinney Supp. 1997) by reason of his having been found guilty of 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 1, 2, 3 and/or 4.

SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N. Y. Educ. law § 6530(9)(b) (McKinney Supp. 1997) by reason of his having been found guilty of 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:

2. The facts in Paragraphs 5, 6, 7 and/or 8.

DATED: *March 31*, 1997
Albany, New York

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