



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

January 24, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David W. Smith
Associate Counsel
NYS Department of Health
Office of Professional Medical Conduct
5 Penn Plaza-Sixth Floor
New York, New York 10001

Stanley A. Teitler, P.C.
Charles R. Rondeau, Esq.
321 Broadway-Penthouse
New York, New York 10007

RECEIVED
JAN 25 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Fevzi A. Ekinici, M.D.
44 West 9th Street
Brooklyn, New York 11231-25041

Effective Date: 01/31/95

RE: In the Matter of Fevzi Ekinici, M.D.

Dear Mr. Smith, Dr. Ekinici and Mr. Rondeau:

Enclosed please find the Determination and Order (No. 95-17) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

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), "(t)he 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 all action 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.

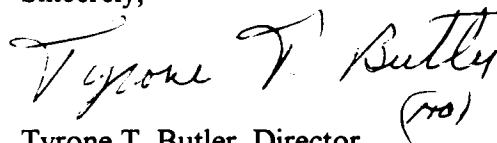
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

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 cursive script that reads "Tyrone T. Butler". To the right of the signature, the initials "(no)" are written in a smaller, less legible cursive.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm

Enclosure

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

**IN THE MATTER : DETERMINATION
OF : AND
FEVZI EKINCI, M.D. : ORDER
: BPMC-95-17**

A Notice of Referral Proceedings and Statement of Charges, both dated November 9, 1994 were served upon the Respondent, FEVZI EKINCI, M.D.

ANTHONY SANTIAGO, Chairperson, **BENJAMIN WAINFELD, M.D.** and **PEARL D. FOSTER, 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 January 11, 1995. The Department of Health appeared by Peter J. Millock, Esq., General Counsel, David W. Smith, Esq., of Counsel. The Respondent appeared by Stanley A. Teitler, P.C., 321 Broadway-Penthouse, New York, New York 10007, Charles R. Rondeau, Esq., of Counsel.

Evidence was received and transcripts of these proceedings were made.

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

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). 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.

1. FEVZI A. EKINCI, M.D., the Respondent, was authorized to practice medicine in New York State on October 14, 1970, by the issuance of license number 107456 by the New York State Education Department (Petitioner's Exs. 1 and 3).
2. On October 8, 1991, after a hearing at which the Respondent was represented by Counsel, the Commissioner of the New York State Department of Social Services (DSS) found that the Respondent had failed to meet professionally recognized standards for health care in furnishing medical care, services or supplies to Medicaid patients in violation of New York State Regulation 18 NYCRR 515.2 (b) (11) and (12); failed to keep acceptable records in

violation of New York State Regulation 19 NYCRR 515.2 (b) (6) and 540.7 (a) (10); and submitted false claims in violation of New York State Regulation 18 NYCRR 515.2 (b) (1) (i) (a) and 515.2 (b) (6) (Petitioner's Ex. 4).

3. The judgement of the Commissioner of Social Services was affirmed by the Appellate Division, Second Judicial Department (Petitioner's Ex. 5).

4. On June 22, 1994, after a trial in New York State Supreme Court-Kings County, the Respondent was convicted of nine (9) counts of criminal sale of controlled substances not in the good faith practice of medicine in violation of Section 220.65 of the New York Penal Law (Petitioner's Ex. 7).

5. On October 9, 1980, after a trial in New York State Supreme Court-Kings County, the Respondent was found guilty of criminal possession of a deadly weapon in the 4th degree in violation of Section 265.01 of the New York Penal Law (Petitioner's Ex. 10).

VOTE OF THE HEARING COMMITTEE

(All votes were unanimous unless otherwise specified)

FIRST SPECIFICATION

The Respondent is charged with professional misconduct within the meaning of New York Education Law Section 6530 (9) (c) by having been found guilty in an adjudicatory proceeding of violating a State statute or regulation pursuant to a final decision when the violation would constitute professional misconduct under New York Education Law Section 6530.

SUSTAINED

SECOND SPECIFICATION

The Respondent is charged with professional misconduct within the meaning of New York Education Law Section 6530 (9) (a) (i) having been convicted of committing an act constituting a crime under New York State Law.

SUSTAINED

THIRD SPECIFICATION

The Respondent is charged with professional misconduct within the meaning of New York Education Law Section 6530 (9) (a) (i) having been convicted of committing an act constituting a crime under New York State Law.

SUSTAINED

DETERMINATION OF THE HEARING COMMITTEE

The Respondent has been found guilty of unacceptable practices in the Medicaid Program; nine (9) counts of criminal sale of controlled substances and criminal possession of a deadly weapon in the 4th degree.

There are no mitigating circumstances to be considered.

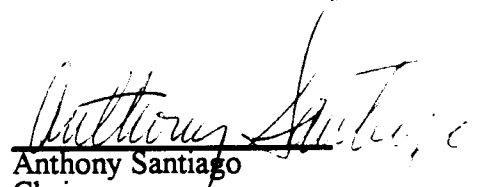
The Respondent's license to practice medicine in New York State should be **REVOKED.**

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: **Bronx, New York**
1/22 1995


Anthony Santiago
Chairman

Benjamin Wainfeld, M.D.
Pearl D. Foster, M.D.

IN RE: FEVZI A. EKINCI, M.D.

Plaintiff
XXXXXXXXXX

Index No.

XXXXXXXXXX

ATTEMPTED
AFFIDAVIT OF SUBSTITUTED
SERVICE OF SUMMONS
XXXXXXXXXX

Defendant
XXXXXXXXXX

Statement of Charges: Notice of Referral Proceeding

STATE OF NEW YORK, COUNTY OF NEW YORK

COMPTON MARTINDALE

being duly sworn, deposes and says: that deponent is not a party
City of New York

That on the 28th day of November

19 94 deponent attempted to serve the
the above captioned action by personal delivery upon the defendant

Statement of Charges and Notice of Referral Proceeding

at upon FEVZI A. EKINCI, M.D.

at 44 W.9th Street, Brooklyn, New York

Plf's
Def't's
Date

Id
Id

Evd.
Evd.
G.M.

Petitioner's 1

1/11/95

On November 21, 1994 at about 12:15 pm

On November 23, 1994, at about 4:15 pm

On November 28, 1994, at about 10:30 am

On the dates and times above stated, deponent attempted to serve the Notice of Referral Proceeding and statement of charges upon Fevzi A. Ekinci, M.D, but on all attempts at service the said doctor was not in his office as he has no regular hours and has no secretary or nurse.

That personal delivery service could not be made with due diligence upon the said defendant and therefore deponent on the day of 19 served a copy of the summons

on said defendant by enclosing same in a postpaid sealed wrapper properly addressed to said defendant at defendant's last known residence, at and depositing said wrapper in — a post office — official depository under the exclusive care and custody of the United States post office department within New York State with an attestation and (a) Deponent affixed a copy of same to the door of

at said premises being defendant's — place of business — dwelling house — usual place of abode — within the state.

Sworn to before me this 5th day of December 19 94

Sandra Farron

COMPTON MARTINDALE 799553

SANDRA FARRON
Notary Public, State of New York
No. 41-4784241
Qualified in Queens County
Commission Expires Sept. 30, 1996

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

-----X
IN THE MATTER
OF
FEVZI A. EKINCI, M.D.
-----X

:
NOTICE OF
:
REFERRAL
:
PROCEEDING
:
-----X

TO: FEVZI A. EKINCI, M.D.
44 West 9th Street
Brooklyn, New York 11231-2504

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the *1st* day of *January*, 1995 at *10* o'clock in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, 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 *January 3, 1995*.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before *January 3, 1995* 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 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: New York, New York

November 9, 1994



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

DAVID W. SMITH
Associate Counsel
NYS Department of Health
Office of Professional
Medical Conduct
5 Penn Plaza, 6th Floor
New York, New York 10001
212-613-2617

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

-----X
IN THE MATTER : STATEMENT
OF : OF
FEVZI A. EKINCI, M.D. : CHARGES
-----X

FEVZI A. EKINCI, M.D., the Respondent, was authorized to practice medicine in New York State on October 14, 1970 by the issuance of license number 107456 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, 1993 through December 31, 1994.

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of New York Educ. Law Section 6530(9)(c) by having been found guilty in an adjudicatory proceeding of violating a State statute or regulation pursuant to a final decision when the violation would constitute professional misconduct under N.Y. Educ. Law Section 6530. Specifically, Petitioner charges:

On October 8, 1991, after hearing at which Respondent was represented by Counsel, the

Commissioner of the New York State Department of Social Services (DSS) found that Respondent had failed to meet professionally recognized standards for health care in furnishing medical care, services or supplies to Medicaid Patients in violation of New York State Regulation 18 NYCRR 515.2(b)(11) and (12), failed to keep acceptable records in violation of New York State Regulation 19 NYCRR 515.2(b)(6) and 540.7(a)(10), and submitted false claims in violation of New York State Regulation 18 NYCRR 515.2(b)(1)(i)(a) and 515.2(b)(6). These violations constitute professional misconduct under N.Y. Educ. Law Sections 6530(2) (practicing the profession fraudulently), (3) (practicing with negligence on more than one occasion, (32) (failing to maintain a patient record which accurately reflects the evaluation and treatment of each patient), and (35) (ordering of excessive tests or treatment not warranted by the patient's condition.

SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of NY Educ. Law Section 6530(9)(a)(i) having been convicted of committing an act constituting a crime under New York State Law. Specifically, Petitioner charges:

On June 22, 1994, after trial, Respondent was convicted of nine (9) counts of selling controlled substances not in the good faith practice of medicine in violation of Section 220.65 of the New York Penal Law.

THIRD SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(i) having been convicted of committing an act constituting a crime under New York State Law. Specifically, Petitioner charges:

On October 9, 1980, after trial, Respondent was found guilty of Criminal Possession of a Deadly Weapon in the 4th Degree in violation of Section 265.01 of the N.Y. Penal Law and was fined \$250.00.

DATED: New York, New York

November 9, 1994

A handwritten signature in black ink, appearing to read "C. Stern Hyman", written over a horizontal line.

CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct