



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

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

Karen Schimke
Executive Deputy Commissioner

March 8, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Terrence Sheehan, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

Martine I. Gold, Esq.
655 Madison Avenue
New York, New York 10021

Maria Cristina Gentile, M.D.
1754 73rd Street
Brooklyn, New York 11204-5639

RECEIVED
MAR 09 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

RE: In the Matter of Maria Cristina Gentile, M.D.

Effective Date: 03/15/95

Dear Mr. Sheehan, Attorney Gold and Dr. Gentile:

Enclosed please find the Determination and Order (No. 95-51) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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), "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 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.

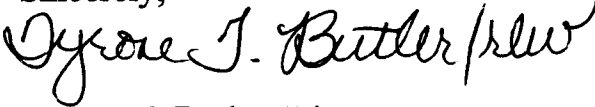
The notice of review served on the Administrative Review Board should be forwarded to:

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" followed by a flourish.

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
OF
MARIA CRISTINA GENTILE, M.D.**

**DETERMINATION
AND
ORDER**
BPMC-95-51

A Notice of Hearing and Statement of Charges, both dated September 9, 1994, were served upon the Respondent, **MARIA CRISTINA GENTILE, M.D.** **PETER D. KUEMMEL, R.P.A.**, (Chair), **FLORENCE KAVALER, M.D.** and **THERESE LYNCH, 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. **CHRISTINE C. TRASKOS, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on December 1, 1994. The Department of Health appeared by **PETER J. MILLOCK, ESQ.**, General Counsel, by **TERRENCE SHEEHAN, ESQ.**, Associate Counsel. The Respondent appeared by **MARTIN I. GOLD, ESQ.** Evidence was received and witnesses sworn and heard 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, Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(i) and Section 6530(9)(d) . A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

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

1. Respondent was authorized to practice medicine in New York State in 1984 by the issuance of license number 158355 by the New York State Education Department. (Pet. Ex. 10)
2. On or about November 19, 1991, Respondent pled guilty in Kings County Supreme Court to the Class D Felony of Grand Larceny in the Third Degree. In and about 1989 and 1990, Respondent, who was employed by Midwood Medical Clinic in Brooklyn, participated with the owner of said clinic in a scheme to fraudulently bill the New York State Medicaid Program in excess of \$1,100,000 for unnecessary or never performed tests and other medical services. As a result, Respondent was sentenced to five (5) years of probation, fined \$5,000 and required to execute a \$150, 000 confession of judgment in favor of the government. (Pet. Exs. 6, 7, 8)

3. On or about May 9, 1991, Respondent pled guilty to the crime of attempted criminal sale of a prescription for controlled substance. On or about May 9, 1989, Respondent unlawfully sold a prescription for Valium to an undercover agent in bad faith and not in the course of regular professional practice. On or about March 31, 1993, Respondent was sentenced to five (5) years probation. (Pet. Ex. 2, 3, 4)
4. On or about June 18, 1991, the New Jersey Board of Medical Examiners issued an order denying Respondent's application for a medical license in the State of New Jersey on the grounds that the Respondent lied on her license application when she denied having ever been asked to resign from any hospital residency position, when in fact she had been forced to resign due to unsatisfactory performance. (Pet. Ex. 9)

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee unanimously concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent pled guilty to a Class D felony of Grand Larceny in the Third Degree and attempted criminal sale of a prescription for a controlled substance. In addition, she lied on her application for a medical license to the New Jersey Board of Medical Examiners. Section 6530(9)(a)(i) of the Education Law defines professional misconduct as "being convicted of committing an act constituting a crime under New York State Law." Section 6530 (9)(d) defines professional misconduct, in part, as having one's medical license application refused by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the refusal of the license application, if committed in New York State, would constitute professional misconduct under Education Law Section 6530(2) and (20). As a result, the Hearing Committee voted to sustain the First, Second and Third Specifications of professional misconduct contained within the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice as a physician in New York should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

Respondent pled guilty to a crime involving fraud against Medicaid and, on a separate occasion, she pled guilty to a crime of attempted criminal sale of a prescription for a controlled substance. In addition, she lied in her application for a medical license in New Jersey. Respondent's multiple instances of dishonesty are of grave concern to the Hearing Committee. The Hearing Committee believes that honesty is an important characteristic for a physician and it cannot be compromised.

The Hearing Committee specifically rejects any type of license suspension at this juncture, because Respondent's ability to resume the practice of medicine after a term of suspension would place future patients in jeopardy. At the hearing, Respondent testified that she believed she needs re-training, but at present she is unable to take continuing medical education courses due to cognitive difficulties resulting from a recent stroke. (T. 33) The Hearing Committee believes that Respondent has demonstrated questionable character as well as questionable ability to practice medicine. Until such time that she can demonstrate that she has rehabilitated herself in both areas, she can not be allowed to practice medicine in this State. Under the totality of the circumstances, revocation is the appropriate sanction in this instance.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED**; and
2. Respondent's license to practice medicine in New York State be, and hereby is, **REVOKED**.

DATED: Albany, New York
March 3, 1995


PETER D. KUEMMEL, R.P.A. (Chair)

FLORENCE KAVALER, M.D.
THERESE LYNCH, M.D.

TO: Terrence Sheehan, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, NY 10001

Martine I. Gold, Esq.
655 Madison Avenue
New York, NY 10021

Marie Cristina Gentile, MD
1754 73rd Street
Brooklyn, NY 11204-5639

APPENDIX I

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

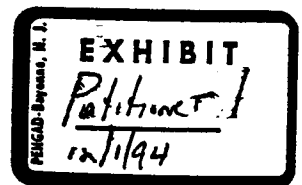
-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: MARIE CRISTINA GENTILE, M.D. : PROCEEDING
: :
-----X

TO: MARIE CRISTINA GENTILE, M.D.
1754 73rd Street
Brooklyn, NY 11204-5639

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 4th day of October, 1994 at 10:00 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 September 28, 1994.

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 September 28, 1994, 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.

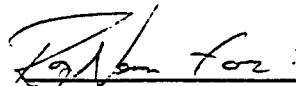
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior 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
Sept 9 , 1994



Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Terrence Sheehan
Associate Counsel
212-613-2601

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

-----X
IN THE MATTER : STATEMENT
OF : OF
MARIA CRISTINA GENTILE, M.D. : CHARGES
-----X

MARIA CRISTINA GENTILE, M.D., the Respondent, was authorized to practice medicine in New York State on 1984 by the issuance of license number 158355 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.

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(i) (McKinney Supp. 1994), in that she was convicted of committing an act constituting a crime under New York State law. Specifically, Petitioner charges:

1. On or about November 15, 1991 Respondent pled guilty in Kings County Supreme Court

to the Class D felony of grand larceny in the third degree.

Respondent was employed as a physician at the Midwood Medical Clinic in Brooklyn, New York. In or about 1989 and 1990

Respondent participated with the owner of the Midwood Medical Clinic in a scheme to fraudulently bill the New York State Medicaid Program for \$1,400,000 worth of unnecessary or never performed tests and other medical services. Respondent allowed these fraudulent bills to be submitted under her Medicaid provider number.

On or about March 9, 1993, Respondent was sentenced to five years of probation, fined \$5,000 and required to execute a \$150,000 confession of judgment in favor of the government.

SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(i) (McKinney Supp. 1994), in that she was convicted of committing an act constituting a crime under New York State law. Specifically, Petitioner charges:

2. On or about May 9, 1991 Respondent pled guilty to the crime of attempted criminal sale of a prescription for a controlled substance.

On or about May 9, 1989, Respondent unlawfully sold a prescription for Valium to an undercover agent in bad faith and not in the course of regular professional practice. Respondent also routinely sold Doriden and Valium prescriptions for cash in bad faith to Medicaid patients at the Midwood Medical Clinic.

On or about March 31, 1993, Respondent was sentenced to five years of probation.

THIRD SPECIFICATION

HAVING DISCIPLINARY ACTION TAKEN BY ANOTHER STATE

Respondent is charged with professional misconduct in violation of N.Y. Educ. Law Section 6530(9)(d) (McKinney Supp. 1994) in that Respondent's application for a license was refused by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the refusal of the license application, if committed in New York State, would constitute professional misconduct under N.Y. Educ. Law Section 6530(2) and (20) and (McKinney Supp. 1994). Specifically, Petitioner charges:

3. On or about June 18, 1991, the New Jersey Board of Medical Examiners issued an order denying Respondent's application for a medical license in the State of New Jersey on the ground that the Respondent lied on her license application when she denied having ever been asked to resign from any hospital residency position.

In fact, Respondent was forced to resign
from two residencies because of
unsatisfying performance.

DATED: New York, New York
9/9/94



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct