



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

December 20, 1994

OFFICE OF PUBLIC HEALTH
Lloyd F. Novick, M.D., M.P.H.
Director
Diana Jones Ritter
Executive Deputy Director

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kevin P. Donovan, Esq.
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower-Room 2429
Albany, New York 12237

Ross Hamilton, M.D.
Inmate # 94A4070
Adirondack Correction Facility
NYS Dept. of Correctional Services
P.O. Box 110
Raybrook, New York 12977

RE: In the Matter of Ross Hamilton, M.D.

Dear Mr. Donovan and Dr. Hamilton:

EFFECTIVE DATE
DECEMBER 27, 1994

Enclosed please find the Determination and Order (No. 94-269) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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/rlw".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:rlw

Enclosure

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

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IN THE MATTER : DETERMINATION
OF : AND
ROSS HAMILTON, M.D. : ORDER
-----X
BPMC-94-269

A Notice of Referral Proceeding and Statement of Charges, both dated October 7, 1994, were served upon the Respondent, Ross Hamilton, M.D. DENISE BOLAN R.P.A. (Chair), PAUL J. WEINBAUM, M.D., and ALBERT ELLMAN, 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. LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Kevin P. Donovan, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on November 30, 1994. 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 §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 §6530(9)(a)(i). 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. Ross Hamilton, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on September 4,

1973 by the issuance of license number 117237 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, 1993 through December 31, 1994 at 30 Sunnyside Way, New Rochelle, New York 10804. (Pet. Ex. #2).

2. Respondent was convicted of committing an act constituting a crime under New York State law, in that on March 21, 1994, he did plead guilty in the Supreme Court of the State of New York, County of New York, to the felony of grand larceny in the first degree. Respondent admitted that he knowingly submitted false claims under the Medicaid program for payment of methadone treatments allegedly rendered to Medicaid recipients. Respondent further admitted that based upon these false statements, Respondent received payments of over one million dollars to which he was not entitled. (Pet. Ex. #3; Pet. Ex. #5).

3. On May 19, 1994, Respondent was sentenced to a prison term of two to six years, and ordered to make restitution in the amount of \$1,569,360.22 plus a surcharge of \$78,465.31. (Pet. Ex. #3; Pet. Ex. #6).

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 concluded that the Department has sustained its burden of proof in this matter. The preponderance

of the evidence demonstrates that Respondent was convicted, upon a plea of guilty to the felony of grand larceny in the first degree, in violation of New York Penal Law §155.42. This constitutes a conviction of a crime under New York State law. As a result, the Hearing Committee voted to sustain the Specification of professional misconduct set forth in 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 medicine in New York State 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 stands convicted of a serious crime. Respondent stole more than 1.5 million dollars from the New York State Medicaid program. This was a crime motivated by sheer greed and a disregard for the consequences to the people of New York State. Respondent, who is currently incarcerated for his crime, did not submit any evidence which might mitigate the sanction to be imposed by this Hearing Committee. Moreover, the very nature of Respondent's conduct demonstrates that he is no longer fit to be a physician in the state of New York. The Hearing Committee unanimously concluded that revocation is the

only appropriate sanction in this matter.

ORDER

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

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is **SUSTAINED**;

2. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**.

DATED: Albany, New York
December 15, 1994

Denise Bolan, RPA-C

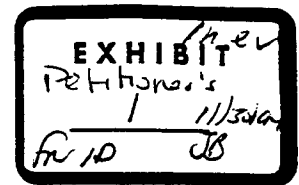
DENISE BOLAN, R.P.A. (CHAIR)

PAUL J. WEINBAUM, M.D.
ALBERT ELLMAN, M.D.

TO: Kevin P. Donovan, Esq.
Associate Counsel
New York State Department of Health
Tower Building - Room 2429
Albany, New York 12237

Ross Hamilton M.D.
Inmate #94A4070
Adirondack Correctional Facility
New York State Department of Correctional Services
P.O. Box 110
Raybrook, New York 12977

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
ROSS HAMILTON, M.D. : PROCEEDING

-----x

TO: Ross Hamilton, M.D.
Inmate #94A4070
Adirondack Correctional Facility
New York State Department of Correctional Services
P.O. Box 110
Raybrook, New York 12977

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 30th day of November, 1994 at 10:00 a.m. of that day at the Cultural Education Building, Room B, Empire State Plaza, Albany, New York 12237.

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 November 21, 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 November 21, 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 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
October 7, 1994


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

Inquiries should be addressed to:

Kevin P. Donovan
Associate Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2429
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
ROSS HAMILTON, M.D. : CHARGES

-----X

Ross Hamilton, M.D., the Respondent, was authorized to practice medicine in New York State on September 4, 1973, by the issuance of license number 117237 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, with a registration address of 30 Sunnyside Way, New Rochelle, New York 10804.

FACTUAL ALLEGATIONS


A. Respondent was convicted of committing an act constituting a crime under New York State law, in that on March 21, 1994, he did plead guilty in the Supreme Court of the state of New York, County of New York, to the felony of grand larceny in the first degree by knowingly submitting false claims under the Medicaid program and receiving payments of over one million dollars to which he was not entitled. On May 19, 1994, he was sentenced to a prison term of two to six years, and restitution of \$1,569,360.22, plus a surcharge of \$78,465.31.

SPECIFICATION OF CHARGES

The Respondent is charged with professional misconduct within the meaning of New York Educ. Law §6530(9)(a)(i) (McKinney Supp. 1994) in that he was convicted of committing an act constituting a crime under New York state law in that Petitioner charges:

The facts of paragraph A.

DATED: *Oct. 7*, 1994
Albany, New York


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