



# STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

April 29, 2002

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Roland Imperial, M.D.  
10801 Tara Road  
Potomac, MD 20854

Roland Imperial, M.D.  
4977 Battery Lane  
Bethesda, MD 20814-4931

Paul Robert Maher, Esq.  
Robert Bogan, Esq.  
NYS Department of Health  
Hedley Park Place  
433 River Street – 4<sup>th</sup> Floor  
Troy, New York 12180

### **RE: In the Matter of Roland Imperial, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 02-126) 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 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, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

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

**COPY**

IN THE MATTER  
OF  
ROLAND IMPERIAL, M.D.

DETERMINATION  
AND  
ORDER

BPMC-02-126

A hearing was held on April 17, 2002, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated November 29, 2001, were served upon the Respondent, **Roland Imperial, M.D.** **Peter B. Kane, M.D.**, Chairperson, **Ernst A. Kopp, M.D.**, and **Mr. John D. Torrant**, 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. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Paul Robert Maher, Esq.**, and **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing, either in person or by counsel.

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 when 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 State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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) and (d). A copy of the Notice of Referral Proceeding and the Statement of Charges is attached to this Determination and Order as Appendix 1.

#### **WITNESSES**

For the Petitioner:	None
For the Respondent:	None

#### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to 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.

1. Roland Imperial, M.D., the Respondent, was authorized to practice medicine in New York State on April 17, 1969, by the issuance of license number 103336 by the New York State Education Department (Petitioner's Ex. 4).

2. On September 22, 1999, the Maryland Department of Health and Mental Hygiene, Board of Physician Quality Assurance ("Maryland Board"), by an Order for Summary Suspension of License to Practice Medicine ("Maryland Summary Order"),

summarily suspended the Respondent's license to practice medicine, based on unprofessional conduct in the practice of medicine; failure to document adequately patient's physical examinations, symptoms, diagnoses, plans of treatment, and level of billing submitted to Medicare; failure to prescribe medication appropriately; prescribing contraindicated medications; failure to assess and evaluate patients' symptoms; failure to conduct necessary studies and laboratory tests; failure to meet standards for the delivery of quality medical and surgical care; failure to comply with the Centers for Disease Control's guidelines on universal precautions and to display those guidelines in his office; failure to comply with a Maryland Board subpoena; and failure to cooperate with a lawful investigation of the Maryland Board (Petitioner's Ex. 5).

3. On April 24, 2001, the Maryland Board, by a Final Decision and Order ("Maryland Final Order") upheld the Summary Suspension issued in the Maryland Summary Order, and ordered that the Respondent's license remain suspended until the Respondent completes a medical recordkeeping course, completes a course in internal medicine and family practice, and, upon completion of those courses, appears before the Maryland Board's Case Resolution Conference and obtains an Order terminating the suspension. If the suspension is terminated, the Respondent will be placed on probation for two years. The Maryland Final Order was based on the Respondent's failure to meet standards of quality medical care, failure to prepare and maintain adequate medical records, failure to cooperate with a lawful investigation of the Maryland Board, unprofessional conduct in the practice of medicine, failure to comply with the Centers for Disease Control's universal precautions and to display those guidelines in his office, failure to display notices required under Maryland law, and maintaining conditions in his office that posed an imminent threat to public health, safety and welfare. (Petitioner's Ex. 6)

## HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to:

- New York Education Law Section 6530(2) - "Practicing the profession fraudulently ...;"
- New York Education Law Section 6530(3) - "Practicing the profession with negligence on more than one occasion;"
- New York Education Law Section 6530(4) - "Practicing the profession with gross negligence on a particular occasion;"
- New York Education Law Section 6530(5) - "Practicing the profession with incompetence on more than one occasion;"
- New York Education Law Section 6530(6) - "Practicing the profession with gross incompetence;" and
- New York Education Law Section 6530(32) - "Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient..."

The Statement of Charges also alleged a violation of New York Education Law Section 6530(16) ("A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine..."). The Statement of Charges does not specify what those laws, rules or regulations are. The Hearing Committee, therefore, is unable to sustain this allegation.

## VOTE OF THE HEARING COMMITTEE

### FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or 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

"Respondent violated New York Education Law Section 6530(9)(d) by having his license suspended or having other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

#### HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing. However, it is clear that the Respondent was served with notice of the hearing. He submitted documentation to the Administrative Law Judge for inclusion in the hearing record and a note stating that he would not attend the hearing due to financial difficulties (Respondent's Ex. A, Administrative Law Judge Ex. 1). The Administrative Law Judge ruled that service on the Respondent was legally sufficient and that the hearing could proceed. The Administrative Law Judge also ruled that some of the documents submitted by the Respondent would not go into evidence because they were submitted for the purpose of proving that the findings against him in the Maryland Summary Order and the Maryland Final Order were inaccurate. Public Health Law Section 230(10)(p) precludes the Hearing Committee from consideration of such an argument. This statute requires that the findings in a disciplinary action from another state be accepted with no opportunity provided to a respondent to



challenge their accuracy. The Administrative Law Judge did admit into evidence part of the documentation submitted by the Respondent:

- Respondent's Ex. A - a one page letter dated April, 11, 2002, from the Respondent to Tyrone Butler, and the first page of another April 11, 2002, letter from the Respondent to Mr. Butler;

- Respondent's Ex. B - letters written by patients and a former employee of the Respondent;

- Respondent's Ex. C - the Respondent's curriculum vitae, biographical information and letters of recommendation.

The Maryland Final Order contains numerous examples of medical care that was negligent or incompetent and, in some instances, grossly negligent or incompetent. The Maryland Board found, among several other inadequacies, that the Respondent did not order necessary laboratory tests and X-rays, prescribed contraindicated medications, failed to monitor patients for side effects of medications that he prescribed, prescribed an excessive number of medications including multiple potentially addictive medications, performed incomplete physical examinations, made diagnoses based upon inadequate and incomplete information, and maintained inadequate medical charts for his patients. The Maryland Board found multiple examples of some of these deficiencies.

The positive statements about the Respondent in Respondent's Ex. B and C cannot outweigh the damaging information about the quality of his medical practice found throughout the Maryland Final Order. Evidence of mitigation, rehabilitation and contrition might have helped the Respondent's case, but there is none in this hearing record. In fact, the Respondent's position is that he did nothing wrong. The Petitioner recommended a revocation of the Respondent's license to practice medicine. This hearing record supports that recommendation.

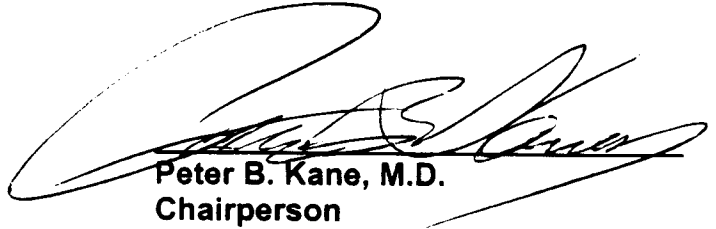
**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine is 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: Cazenovia, New York**

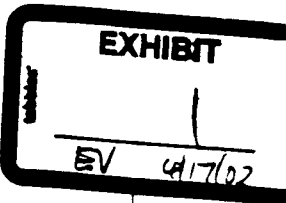
*4/26/02*, 2002



**Peter B. Kane, M.D.  
Chairperson**

**Ernst A. Kopp, M.D.  
John D. Tarrant**

# **APPENDIX I**



**IN THE MATTER**  
**OF**  
**ROLAND IMPERIAL, M. D.,**  
**CO-99-11-0517-A**

**NOTICE OF**  
**REFERRAL**  
**PROCEEDING**

**TO:** ROLAND IMPERIAL, M. D.  
10801 Tara Road  
Potomac, MD 20854

ROLAND IMPERIAL, M.D.  
4977 Battery Lane  
Bethesda, MD 20814-4931

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 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 17<sup>th</sup> day of January 2002, at 10:00 in the forenoon of that day at the Clarion Inn & Suites, 611 Troy-Schenectady Road, Latham, New York 12110.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. 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 that 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, 5<sup>th</sup> Floor, 433 River Street, Troy, New York, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of

Adjudication") as well as the Department of Health attorney indicated below, on or before January 7, 2002.

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 of 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 January 7, 2002, 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

*November 29*, 2001



PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan  
Associate Counsel  
New York State Department of Health  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828

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

IN THE MATTER  
OF  
ROLAND IMPERIAL, M.D.  
CO-99-11-0517-A

STATEMENT  
OF  
CHARGES

ROLAND IMPERIAL, M.D., the Respondent, was authorized to practice medicine in New York state on April 17, 1969, by the issuance of license number 103336 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about September 22, 1999, the Maryland Department of Health and Mental Hygiene, Board of Physician Quality Assurance (hereinafter "Maryland Board"), by an Order for Summary Suspension of License to Practice Medicine (hereinafter "Maryland Order"), Summarily Suspended Respondent's license to practice medicine, based on unprofessional conduct in the practice of medicine, failure to adequately document patients' physical examinations, symptoms, diagnosis, plans of treatment, and level of billing submitted to Medicare, failure to appropriately prescribe medication, prescribing medications that are contraindicated, failure to assess and evaluate patients' symptoms, failure to conduct studies or laboratory tests, failure to meet appropriate peer review for the delivery of quality medical and surgical care, failure to comply with the Centers for Disease Control's guidelines on universal precautions, failure to display notice written in layman's language that explains the Centers for Disease Control's guidelines on universal precautions, failure to comply with a Board Subpoena, failure to cooperate with a lawful investigation conducted by the Board, and failure to keep adequate medical records.

B. On or about April 24, 2001, the Maryland Board by a Final Decision and Order (hereinafter "Maryland Final Order"), **UPHELD** the Summary Suspension issued in the September 22, 1999, Maryland Order described in Paragraph A above, and ordered that the Respondent remain suspended until he completes a medical recordkeeping course, completes a course in internal medicine and family practice, and upon completion of those courses, appear

before the Board's Case Resolution Conference and satisfactorily explain what he has learned and why he feels capable of practicing medicine competently without posing a danger to the public, after which Respondent's suspension may be lifted and he will be placed on **probation for two years**, subject to conditions, including obtaining a practice monitor, unannounced inspections of his practice, and maintaining his office in a manner that does not pose a threat to the health or safety of his patients or to the general public, based on Respondent's failure to meet appropriate standards of quality medical care, failure to prepare and maintain adequate medical records, failure to cooperate with the lawful investigation of the Board, unprofessional conduct in the practice of medicine, failure to comply with the Center for Disease Control's universal precautions, failure to display the notice required under Maryland law, and maintaining conditions of his office that posed an imminent threat to public health, safety, and welfare.

C. The conduct resulting in the Maryland Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(4) (gross negligence);
4. New York Education Law §6530(5) (incompetence on more than one occasion);
5. New York Education Law §6530(6) (gross incompetence);
6. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules, or regulations governing the practice of medicine); and/or
7. New York Education Law §6530(32) (failure to maintain accurate records for each patient).

### **SPECIFICATIONS**

#### **FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) having been found guilty of improper professional practice or 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:




1. The facts in Paragraphs A, B, and/or C.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) having his license suspended or having other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

2. The facts in Paragraphs A, B, and/or C.

DATED: *Nov. 29*, 2001  
Albany, New York

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