

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

IN THE MATTER
OF
GREGORY ALAN JOHNSON, M.D.

COMMISSIONER'S
SUMMARY
ORDER

TO: GREGORY ALAN JOHNSON
4911 Harbor Lane
Everett, WA 98203

3100 Carillon Point
Kirkland, WA 98033

The undersigned, Barbara A. DeBuono, M.D., M.P.H., Commissioner of Health of the State of New York, pursuant to N.Y. Public Health Law §230 (McKinney 1990 and Supp. 1997 (as amended by Ch. 627 and 599 of the Laws of 1996)), upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction has made a finding substantially equivalent to a finding that the practice of medicine by GREGORY ALAN JOHNSON (the Respondent) in that jurisdiction constitutes an imminent danger to the health of its people or that Respondent has been disciplined by such an agency for acts which if committed in this state would have constituted a basis for summary action by the Commissioner pursuant to N.Y. Public Health Law §230(12)(a) (McKinney 1990 and Supp. 1997 (as amended by Ch. 627 and 599 of the Laws of 1996)), as is more fully set forth in the Statement of Charges attached hereto and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b) (McKinney 1990 and Supp. 1997 (as amended by Ch. 627 and 599 of the Laws of 1996)), that effective immediately, Respondent shall not practice medicine in the State of New

York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law §230(12) (McKinney 1990 and Supp. 1997 (as amended by Ch. 627 and 599 of the Laws of 1996)).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1997 (as amended by Ch. 627 and 599 of the Laws of 1996)), and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1997). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Summary Hearing to be provided to the Respondent at a later date. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall notify both the attorney whose name is set forth in this Order, and the Director of the Bureau of Adjudication, New York State Department of Health, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237-0026 (Telephone: 518-402-0748).

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a (McKinney Supp. 1997). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
September 15, 1997


BARBARA A. DeBUONO, M.D., M.P.H.
Commissioner of Health

Inquiries should be directed to:

ROY NEMERSON
Deputy Counsel - BPMC
N.Y.S. Department of Health
Division of Legal Affairs
5 Penn Plaza
Suite 601
New York, New York 10001
(212) - 613-2615

IN THE MATTER
OF
GREGORY ALAN JOHNSON, M.D.

STATEMENT
OF
CHARGES

GREGORY ALAN JOHNSON, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 24, 1985, by the issuance of license number 162264 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about March 18, 1997, the Medical Quality Assurance Commission of the State of Washington, by its Deputy Executive Director, summarily suspended the medical license of Respondent. A copy of March 18, 1997 Notice and Order of Summary Suspension and the Statement of Charges and Motion for an Order of Summary Suspension issued by the State of Washington Medical Quality Assurance Commission is attached hereto and made a part hereof. The suspension was based upon a conclusion that a reasonable basis exists to conclude that Respondent's continued practice of medicine and surgery in the State of Washington represented a danger to the public health and welfare. The conclusion was based upon a finding that on or about March 12, 1997, Respondent took Patient One into his operating room, caused her to put on a gas mask, turned on the gas, forcibly held the mask on her face when she attempted to remove it, and had sexual contact with her after she was rendered unconscious by the gas.

SPECIFICATION OF CHARGES

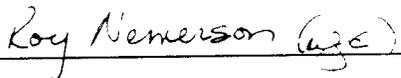
SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1997) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §6530(20) and/or (31)) as alleged in the facts of the following:

1. Paragraph A

DATED: September 15, 1997
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action.

3. RCW 18.130.180(24), which defines as unprofessional conduct:

(24) Abuse of a client or patient or sexual contact with a client or patient.

4. RCW 18.130.050(7), which permits the disciplining authority to take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the disciplining authority.

RESPECTFULLY SUBMITTED this 13th day of March, 1997.


Michael L. Farrell WSBA # 16022
Department of Health Staff Attorney

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice as a Physician of:)	Program No. 97-03-0040MD
)	OPS No. 97-03-18-761 MD
)	
GREGORY ALAN JOHNSON, MD, License No. MD00026839)	NOTICE AND ORDER OF SUMMARY SUSPENSION
)	
Respondent.)	
)	

THIS MATTER came before the state of Washington Medical Quality Assurance Commission (the Commission), and Health Law Judge Arthur E. DeBusschere, Presiding Officer for the Commission, via telephone conference on March 18, 1997, on the motion for an order of summary suspension made by Michael L. Farrell, Staff Attorney, Department of Health. Members of the Commission present and considering the matter were Don Miller, MD; Darrell Beers; and Richard Bunch, MD. There were no other persons present on the telephone conference and, thus, no oral argument was taken. Based on consideration of the written evidence and documents presented, the Commission issues the following:

Section 1: FINDINGS OF FACT

1.1 The Commission has a policy in favor of summary suspension of the license to practice medicine and surgery when there is a reasonable basis to believe there is an imminent danger to the public health and welfare. This policy is based on the legislative intent of the laws regulating physicians, Chapter 18.71 RCW. This policy is consistent with the fact that physicians practice

C. [Signature]

unsupervised, have access to controlled substances, and frequently see patients in life-threatening situations.

1.2 The following facts set forth in the motion and affidavit describe the imminent danger or harm to the public and to prospective patients.

1.2.1 On February 10, 1997, Respondent performed cosmetic surgery on Patient One. Respondent saw Patient One for weekly follow up appointments.

1.2.2 On March 12, 1997, Respondent saw Patient One for a follow up appointment. After the visit, Respondent suggested to Patient One that they meet at the Woodmark Hotel for drinks.

1.2.3 Respondent and Patient One met and drank alcoholic beverages at the Woodmark Hotel. Respondent and Patient One then left the Woodmark Hotel and went back to his office to get something to eat.

1.2.4 While at the office, Respondent took Patient One into his operating room and asked Patient One to put on a gas mask. When Patient One put on the gas mask, Respondent turned on the gas. When Patient One tried to remove the gas mask, Respondent held the mask to her face until she lost consciousness.

1.2.5 Respondent had sexual contact with Patient One while she was unconscious.

Section 2: CONCLUSIONS OF LAW

2.1 The Commission has jurisdiction over Respondent and this matter.

2.2 The allegations contained in paragraphs 1.1 through 1.2.5 above, constitute grounds for the suspension of Respondent's license to practice medicine in the State of Washington pursuant to RCW 18.130 180(1) and (24), which define unprofessional conduct in pertinent part as follows:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action.

(24) Abuse of a client or patient or sexual contact with a client or patient.

2.3 The findings of fact in paragraphs 1.1 through 1.2.5 constitute a reasonable basis to conclude that the respondent's continued practice of medicine and surgery in the state of Washington is a danger to the public health and welfare.

2.4 The proposed summary suspension is necessary to prevent or avoid immediate danger to the public health, safety, and welfare. The suspension imposed is the least restrictive means justified by the danger posed by respondent's continued practice of medicine or surgery. The findings support the conclusion the Commission is justified to take this emergency action, as provided under RCW 34.05.479 and RCW 18.130.050(7) because the alleged conduct was purposeful, egregious, and occurred after hours in Respondent's office. Thus, any lesser sanction, such as a chaperon or a restricted practice, would not be sufficient to protect the public.

2.5 The license to practice medicine in the State of Washington of Gregory A. Johnson, MD, should be summarily suspended pending further proceedings, pursuant to RCW 34.05.422(4) of the Administrative Procedures Act.

Section 3: ORDER

Based upon the Findings of Fact and Conclusions of Law and under the authority of RCW 34.05.422(4), RCW 18.130.180(1) and (24), 18.130.050(7), the Commission enters the following order:

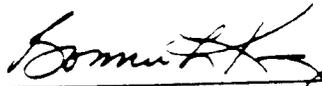
IT IS ORDERED, that the license to practice medicine in the State of Washington held by Gregory A. Johnson, MD, is SUSPENDED pending further proceedings, effective immediately;

IT IS ORDERED, that the Commission delegates the authority to sign this Order to Bonnie King, Deputy Executive Director, Medical Quality Assurance Commission.

IT IS FURTHER ORDERED, that the Respondent may request a prompt hearing in the matter of this order summarily suspending his license by submitting the Answer to the Department of Health at the address indicated on that document. The Answer must be received by the Department of Health within ten days of the service of this order, and after receipt, the prompt hearing will be scheduled within twenty (20) days of service of this order. If a prompt hearing request is not received before the specified time, the Respondent shall be deemed to have waived his opportunity for a prompt hearing, and the summary suspension of his license to practice medicine shall remain in effect pending final disposition of this matter.

DATED THIS 18th DAY OF MARCH, 1997

MEDICAL QUALITY ASSURANCE COMMISSION



Bonnie King, Deputy Executive Director

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

by this is a true copy of
record on file in the Department of
Health, State of Washington

day of _____, 19____
Signature, Authorized Representative

In the Matter of the License to Practice as a)
Physician of) Program No. 97-03-0040MD
)
GREGORY ALAN JOHNSON, MD) STATEMENT OF CHARGES
License No. MD00026839)
)
Respondent.)
_____)

The Administrator, on designation by the Commission, makes the allegations below. Any patients referred to in this Statement of Charges are identified in an attached Confidential Schedule.

Section 1: ALLEGED FACTS

- 1.1 Gregory A. Johnson, MD, Respondent, was issued a license to practice medicine and surgery by the State of Washington in October 1989.
- 1.2 On February 10, 1997, Respondent performed cosmetic surgery on Patient One. Respondent saw Patient One for weekly follow up appointments.
- 1.3 On March 12, 1997, Respondent saw Patient One for a follow up appointment. After the visit, Respondent suggested to Patient One that they meet at the Woodmark Hotel for drinks.
- 1.4 Respondent and Patient One met and drank alcoholic beverages at the Woodmark Hotel. Respondent and Patient One then left the Woodmark Hotel and went back to his office to get something to eat.

1.5 While at the office, Respondent took Patient One into his operating room and asked Patient One to put on a gas mask. When Patient One put on the gas mask, Respondent turned on the gas. When Patient One tried to remove the gas mask, Respondent held the mask to her face until she lost consciousness.

1.6 Respondent had sexual contact with Patient One while she was unconscious.

Section 2: ALLEGED VIOLATIONS

2.1 The violations alleged in this section constitute grounds for disciplinary action pursuant to RCW 18.130.180 and the imposition of sanctions under 18.130.160.

2.2 The facts alleged in paragraphs 1.2 through 1.6 constitute unprofessional conduct in violation of RCW 18.130.180(1) which provides:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under Chapter 9.96A RCW.

2.3 The facts alleged in paragraphs 1.2 through 1.6 constitute unprofessional conduct in violation of RCW 18.130.180(24) which provides:

(24) Abuse of a client or patient or sexual contact with a client or patient.

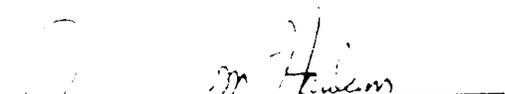
Section 3: NOTICE TO RESPONDENT

The charges in this document affect the public health, safety and welfare and constitute a probability of death or bodily harm. The Administrator of the Commission directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline pursuant to RCW 18.130.180 and the imposition of sanctions under 18.130.160.

DATED this 18th day of March, 1997.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION


Beverly Teeter
Administrator


David Hankins WSBA # 19194
Assistant Attorney General Prosecutor