



# 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*

July 29, 1996      Karen Schimke  
*Executive Deputy Commissioner*

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kimberly O'Brien, Esq.  
NYS Department of Health  
Corning Tower-Room 2438  
Empire State Plaza  
Albany, New York 12237

Suzanne Karefa-Smart, M.D.  
a/k/a Suzzane Karefa-Johnson, M.D.  
4601 North Park Avenue  
Chevy Chase, Maryland 20815-4522

Effective Date: 08/05/96

RE: In the Matter of Suzanne Karefa-Smart, M.D.  
a/k/a Suzanne Karefa-Johnson, M.D.

Dear Ms. O'Brien and Dr. Karefa-Smart:

Enclosed please find the Determination and Order (No.96-175) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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

bcc. Dr Vacanti  
Ms. Riser  
Ms. Bohenek  
Ms. Saile  
Mr. Osten  
Mr. Horan  
Mr. Kelleher (w/AOS)  
SAPA File  
Case File  
Reading File

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.

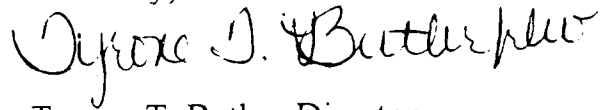
The notice of review served on the Administrative Review Board should be forwarded to:

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 black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T' and 'B'.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:rlw  
Enclosure

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

**COPY**

**IN THE MATTER**

**OF**

**SUZANNE KAREFA-SMART, M.D.  
a/k/a SUZANNE KAREFA-JOHNSON, M.D.**

**DETERMINATION**

**AND**

**ORDER**

**BPMC-96-175**

A Notice of Hearing and Statement of Charges, both dated May 15, 1996, were served upon the Respondent, **SUZANNE KAREFA-SMART, M.D., a/k/a SUZANNE KAREFA-JOHNSON, M.D.** **THERESE G. LYNCH, M.D., (Chair), JOHN T. PRIOR, M.D.** and **ANTHONY C. BIONDI**, 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 June 26, 1996. The Department of Health appeared by **HENRY M. GREENBERG, GENERAL COUNSEL**, by **KIMBERLY O'BRIEN, ESQ.**, Senior Attorney. The Respondent did not appear and was not represented by counsel. 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 Sections 6530 (9)(a)(iii) 6530 (9) (b) and 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 on June 10, 1983, by the issuance of license number 154348 by the New York State Education Department.  
(Pet. Ex. #2)

2. On or about February 9, 1994, the Long Beach Municipal Court of California, Criminal Division (hereinafter the "Criminal Court"), convicted Respondent of one (1) misdemeanor count of unlawful furnishing of a controlled substance by prescription. The Criminal Division sentenced Respondent to an 18 month probation and required Respondent to pay restitution in the amount of Five Thousand Dollars (\$5,000.00).
  
3. On or about July 18, 1995, the Medical Board of California, (hereinafter the "California Board"), by Board Decision and Stipulation, found, upon Respondent's admission that she violated the California Business and Professional Code and was subject to discipline for aiding and abetting another in the unlicensed practice of medicine, permitting another person to use her license to engage in the practice of medicine, obtaining money under false pretenses from the California Medical program, and aiding and abetting another to make or sign false documents related to medical treatment and services provided by an unlicensed person.
  
4. The California Board revoked and stayed Respondent's license to practice medicine in California, suspended Respondent's license to practice for sixty days, imposed practice restrictions and a practice monitor, imposed a five (5) year probation, required Respondent to provide at least 120 hours of community service, required 40 hours per year of Continuing Medical Education and an ethics course, required Respondent to pay a Three Thousand Dollar (\$3,000.00) fine.
  
5. On or about March 5, 1996, the Maryland Board of Quality Assurance (hereinafter "Maryland Board"), issued a Final Order reinstating Respondent's Maryland license, subject to a consent agreement with Respondent which included: a two (2) year probation, practice in a pre-approved setting, onsite and practice supervision, and 40 hours of continuing medical education for the conviction of a crime in California and the California Board

discipline

### 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 was convicted of one misdemeanor count of unlawful furnishing of a controlled substance by prescription in violation of California Penal Law. Section 6530 (9)(a)(iii) of the Education Law defines professional misconduct as "being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State Law." In addition, the California Board disciplined Respondent for aiding and abetting another person in the unlicensed practice of medicine and fraudulent acts which included reimbursement to Respondent from the Medi-Cal program for over One Hundred Thousand Dollars (\$100,000.00) for medical treatment and services provided by an unlicensed person. As a result, the California Board revoked Respondent's license. The revocation was stayed and Respondent was placed on probation for five (5) years with monitoring and other penalties. Pursuant to her conviction and the disciplinary procedures of the California Board, the Maryland Board imposed a two (2) year probation with monitoring and other penalties as well. (Exs. 3 and 5)

Section 6530 (9)(b) of the Education Law defines professional misconduct as "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." Section 6530 (9)(d) of the Education Law defines professional misconduct in



part as having his or her license to practice medicine suspended, after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension would, if committed in New York State, constitute professional misconduct under the laws of New York State. As a result, the Hearing Committee voted to sustain the First, Second, Third and Fourth 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 medicine in New York State should be revoked. This determination was reached upon due consideration of the full spectrum for penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

Respondent did not appear at the hearing and she offered no mitigation evidence.

The Hearing Committee finds that Respondent's assisting of an unlicensed person to practice medicine is serious professional misconduct. Furthermore, this misconduct resulted in the treatment of patients by an unlicensed person and the filing of fraudulent Medi-Cal claims in excess of One Hundred Thousand Dollars (\$100,000.00). The Hearing Committee notes that Respondent was also convicted for the unlawful furnishing of a controlled substance by prescription. The Hearing Committee further finds that Respondent does not appreciate the pharmacological effects of the drugs which she prescribed.

The Hearing Committee believes that a physician who has not only been criminally convicted but has also been disciplined by other state boards for serious acts of professional misconduct cannot be allowed to practice medicine in New York State. Therefore, revocation is the appropriate sanction in this instance.

**ORDER**

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

1. The Specifications of professional misconduct contained within 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  
*July 22*, 1996

*Therese G. Lynch*  
**THERESE G. LYNCH, M.D. (Chair)**

**JOHN T. PRYOR, M.D.  
ANTHONY C. BIONDI**

**TO:** Kimberly O'Brien, Esq.  
Senior Attorney  
NYS Department of Health  
Corning Tower-Room 2438  
Empire State Plaza  
Albany, New York 12237

Suzanne Karefa-Smart, M.D.  
a/k/a Suzanne Karefa-Johnson, M.D.  
4601 North Park Avenue  
Chevy Chase, MD 20815-4522

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

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IN THE MATTER : NOTICE OF  
OF : REFERRAL  
SUZANNE KAREFA-SMART, M.D. : PROCEEDING  
a/k/a SUZANNE KAREFA-JOHNSON, M.D.

-----x

TO: SUZANNE KAREFA-SMART, M.D.  
a/k/a SUZANNE KAREFA-JOHNSON, M.D.  
4601 North Park Ave.  
Chevy Chase, Md. 20815-4522

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. 1996) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1996). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 26th day of June, 1996 at 10:00 in the forenoon of that day at the OGS Conference Room, Empire State Plaza, Concourse Level, Albany, New York 12230 (located just outside the entrance to the Corning Tower).

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 June 17, 1996.


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 June 17, 1996, 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  
May 15, 1996

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

Inquiries should be addressed to:

Kimberly A. O'Brien  
Senior Attorney  
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  
SUZANNE KAREFA-SMART, M.D. : CHARGES  
a.k.a SUZANNE KAREFA-JOHNSON  
Respondent :  
-----X

SUZANNE KAREFA-SMART, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 10, 1983 by the issuance of license number 154348 by the New York State Education Department and is not currently registered.

**FACTUAL ALLEGATIONS**

- A. The Long Beach Municipal Court of California, Criminal Division (hereinafter the Criminal Court), on or about February 9, 1994, convicted Respondent of one misdemeanor count of unlawful furnishing of a controlled substance by prescription. The Criminal Division sentenced Respondent to a 18 month probation and required Respondent to pay restitution in the amount of \$5,000.
- B. 1. The Medical Board of California, [hereinafter "the California Board"], by Board Decision and Stipulation on or about July 18, 1995 found, upon Respondent's admission that she violated the California Business and

Business and Professional Code and was subject to discipline for: aiding and abetting another in the unlicensed practice of medicine, permitting another person to use her license to engage in the practice of medicine, obtaining money under false pretenses from the California Medical program, and aiding and abetting another to make or sign false documents related to medical treatment and services provided by an unlicensed person.

2. The California Board revoked and stayed Respondent's license to practice medicine in California, suspended Respondent's license to practice for sixty days, imposed practice restrictions and a practice monitor, imposed a five year probation, required Respondent to provide at least 120 hours of community service, required 40 hours per year of Continuing Medical Education and an ethics course, required Respondent to pay a \$3,000 fine.
  
3. The conduct underlying the California Board's finding of unprofessional conduct would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(2) (McKinney Supp. 1996) [practicing fraudulently] and/or N.Y. Educ. Law §6530(11) (McKinney Supp. 1996) [aiding or abetting an unlicensed person to perform activities requiring a license] and/or N.Y. Educ. Law §6530(20) (McKinney



Supp. 1996) [moral unfitness] and/or N.Y. Educ. Law §6530(21) (McKinney Supp. 1996) [willfully making or filing a false report].

C. 1. The Maryland State Board of Quality Assurance (hereinafter Maryland Board), on or about March 5, 1996, issued a Final Order reinstating Respondent's Maryland license, subject to a consent agreement with Respondent which included: a 2 year probation, practice in a preapproved setting, onsite and practice supervision, and 40 hours of continuing medical education for the conviction of a crime in California and the California Board's discipline.

2. The conduct underlying the Maryland Board's finding of unprofessional conduct would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1996) [discipline in another state].

#### **FIRST SPECIFICATION**

#### **CONVICTION OF A CRIME**

Respondent is charged with professional misconduct by reason of her having been convicted of committing an act constituting a crime under state law, in violation of N.Y. Educ. Law §6530(9)(a)(ii) (McKinney Supp. 1996) in that Petitioner charges:

1. The facts in paragraphs A.

**SECOND AND THIRD SPECIFICATIONS**

**DISCIPLINE IN ANOTHER STATE**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1996) by reason of her having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state, in that Petitioner charges:

2. The facts in Paragraphs B.1, B.2 and/or B.3.

**THIRD AND FOURTH SPECIFICATION**

**DISCIPLINARY ACTION TAKEN IN ANOTHER STATE**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1996) by reason of having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, in that Petitioner charges:

3. The facts in Paragraphs B.1, B.2 and/or B.3.
4. The facts in Paragraphs C.1 and/or C.2.

DATED: *May 15*, 1996  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct