



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

January 8, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Daniel Guenzburger, Esq.
NYS Department of Health
5 Penn Plaza Sixth Floor
New York, New York 10001

Jean J. LaBaze, M.D.
1120 East Jersey Street
Elizabeth, New Jersey 07201-7207

RE: In the Matter of Jean J. LaBaze, M.D

Dear Mr. Guenzburger and Dr. LaBaze:

Enclosed please find the Determination and Order (No. 97-13) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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 that reads "Tyrone T. Butler". The signature is written in a cursive style with a large, stylized "T" and "B".

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-
JEAN J. LABAZE, M.D.

Respondent

DETERMINATION

AND

ORDER

BPMC-97-13

A Notice of Referral Proceeding and Statement of Charges, dated October 17, 1996 and October 1, 1996 respectively, were served upon the Respondent, Jean J. LaBaze, M.D. **JERRY WAISMAN, M.D. (Chair), RANDALL GRIEPP, M.D. and GEORGE SIMMONS, Ed.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. **JEFFREY W. KIMMER, ESQ., ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. The Department of Health appeared by Daniel Guenzburger, Assistant Counsel. The Respondent did not appear in person or by counsel. Evidence was received, statements were 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). This statute provides for an expedited proceeding 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 prior professional disciplinary action or criminal conviction. The scope of this expedited proceeding 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)(d) (disciplinary action taken against the license by another state). The charges herein arise from Respondent entering into an Interim Consent Order with the State of New Jersey pursuant to which the Respondent surrendered his medical license and agreed to cease the practice of medicine in New Jersey. The Verified Complaint which was the basis of the Consent Order, alleged that the Respondent maintained his medical office without adherence to appropriate sanitary practices and possessed expired and unlabeled medications in his office and that such conduct was a clear and imminent danger to the public's health and safety. The allegations in this proceeding are more particularly set forth in the Statement of Charges, a copy of which is attached to this Determination and Order as Appendix One.

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 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. Jean J. LaBaze, M.D. (hereinafter, "Respondent"), was licensed to practice medicine in New York State on or about July 1, 1968, by the issuance of license number 101700 by the New York State Education Department. (Pet. Ex. 2).

2. On or about May 2, 1996, a Verified Complaint was filed with the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (hereinafter State Board), which alleged that the Respondent maintained his medical office without adherence to appropriate sanitary practices and possessed expired and unlabeled medications in his office and that such conduct was a clear and imminent danger to the public's health and safety. (Pet. Ex. 4)

3. On or about May 8, 1996, the State Board entered into an Interim Consent Order executed by the Respondent and the State Board which ordered the Respondent to surrender his New Jersey medical license and to cease the practice of medicine in New Jersey. (Pet. Ex. 5)

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 had disciplinary action taken or had his application for a license refused by a professional disciplinary agency of another state. The underlying conduct which was the basis for the action by the State Board would constitute professional misconduct in New York. Specifically, the Hearing Committee found the Respondent's actions would fall within the definitions of misconduct set forth at §6530(3) (Practicing the profession with negligence on more than one occasion), N.Y. Education Law §6530(4) (Practicing the profession with gross negligence on a particular occasion), and N.Y. Education Law §6530(47) (Failure to use scientifically accepted infection control practices).

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.

The Hearing Committee views the conduct which resulted in the New Jersey Interim Consent Order to be extremely serious violations of the safe practice of medicine and pose a threat to the public's health. Respondent did not appear nor was

he represented by counsel. Given the Respondent failure to appear and present any mitigating facts on his behalf, the Hearing Committee felt his conduct warranted revocation. It is the Hearing Committee's duty to protect the consumers of medical services of this state. The Hearing Committee unanimously determined that a person who conducts his practice of medicine in such a manner as to pose an imminent threat to the public's safety should not be afforded the privilege of practicing medicine in New York and that revocation is the appropriate sanction.

ORDER

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

1. The First Specification of professional misconduct, as set forth in the Statement of Charges (Appendix I) are **SUSTAINED**;
2. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**.

DATED: New York, New York

1/6, 1997


JERRY WAISMAN, M.D. (CHAIR)

Randall Griep, M.D.
George Simmons, Ed.D.

TO: Daniel Guenzburger, Esq.
Assistant Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Jean J. LaBaze, M.D.
1120 East Jersey Street
Elizabeth, New Jersey 07201-7207

APPENDIX I

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

IN THE MATTER
OF
JEAN J. LABAZE, M.D.

STATEMENT
OF
CHARGES

JEAN J. LABAZE, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1968, by the issuance of license number 101700 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. By an order to show cause and Verified Administrative Complaint dated May 1, 1996, the New Jersey Board of Medical Examiners ("Board") sought an order temporarily suspending or revoking Respondent's medical license on the ground that Respondent's continued practice of medicine represented an imminent danger to the public health, safety and welfare. On or about May 8, 1996, the Respondent entered into an Interim Consent Order with the Board in which he agreed to immediately cease and desist from the practice of medicine in the State of New Jersey pending a hearing on professional disciplinary charges.

The New Jersey Board has charged the Respondent with violating N.J.S.A. §45:21(c) ("Gross Negligence") (1996) and with violating N.J.S.A. §45:1-21(d) ("Repeated acts of negligence") (1996). The Board alleges that Respondent failed to adhere to appropriate sanitary practice and possessed expired and unlabeled medications at an office in which he practiced gynecology and general medicine.

SPECIFICATION OF CHARGES

SPECIFICATION

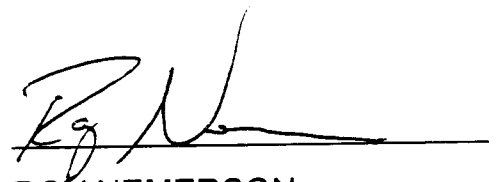
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1996) 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 Sections 6530(3)("Negligence on more than one occasion"), 6530(4)("Gross negligence"), and/or 6530(47)("Failure to use accepted infection control practices.")(McKinney Supp. 1996), as alleged in the facts of the following:

1. Paragraph A.

DATED: October 7, 1996
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct