



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

September 23, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joseph Huberty, Esq.
Assistant Counsel
NYS Department of Health
Corning Tower - Room 2429
Albany, New York 12237

Effective Date: 9/30/94

Lila V. Nevrekar, M.D.
1902 Gordon Cooper Drive
Shawnee, Oklahoma 74801

RE: In the Matter of Lila V. Nevrekar, M.D.

Dear Mr. Huberty and Dr. Nevrekar :

Enclosed please find the Determination and Order (No. 94-196) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

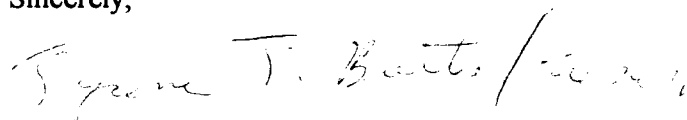
The notice of review served on the Administrative Review Board should be forwarded to:

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,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mmn

Enclosure

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

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IN THE MATTER : DETERMINATION
OF :
LILA V. NEVREKAR, M.D. : ORDER
-----X

NO. BPMC-94-196

A Notice of Referral Proceeding, dated July 13, 1994, and a Statement of Charges, dated July 12, 1994, were served upon the Respondent, Lila V. Nevrekar, M.D. **THERESE G. LYNCH, M.D. (Chair), SISTER MARY THERESA MURPHY, and MOHAMMAD GHAZI-MOGHADAM, 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 Joseph Huberty, Esq., Assistant Counsel. The Respondent failed to appear in person and she was not represented by counsel. A hearing was held on September 13, 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)(iii), §6530(9)(b), §6530(9)(c) 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. Lila V. Nevrekar, M.D. (hereinafter, "Respondent"),

was authorized to practice medicine in New York State on August 21, 1973 by the issuance of license number 117145 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine in New York State. (Pet. Ex. #4).

2. On or about January 21, 1993, in the District Court of Oklahoma County, State of Oklahoma (Case #CF-93-170), Respondent was convicted of Medicaid Fraud, a felony under Oklahoma law. Respondent willfully and knowingly made false claims for medical services in the amount of \$8,495.00. She was fined \$17,000.00 and sentencing was deferred to March 4, 1996. (Pet. Ex. #2).

3. By an Order dated May 30, 1993, the Oklahoma State Board for Medical Licensure and Supervision (hereinafter "Oklahoma Board") suspended Respondent's Oklahoma medical license for a period of three days and directed Respondent to pay the costs of the disciplinary proceedings before the Oklahoma Board. The basis for this disciplinary action was the underlying criminal conviction for Medicaid Fraud. (Pet. Ex. #3).

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 of the

crime of Medicaid Fraud in the State of Oklahoma on January 21, 1993. Her conduct (the filing of false medical claims) would, if committed in New York State, constitute a crime under New York Soc. Services Law §366-B, as well as a violation of Penal Law §175.30. As a result, the Committee voted to sustain the First Specification of professional misconduct.

The Hearing Committee further concluded that the Second through Fifth Specifications should be sustained. The record clearly established that Respondent was disciplined by the Oklahoma Board, following her criminal conviction. She was found guilty of a criminal violation of Oklahoma law which was directly connected to the practice of medicine (filing of false Medicaid claims). It is axiomatic, therefore, that Respondent has been found guilty in an adjudicatory proceeding of having violated a state statute pursuant to a final decision or determination where the violation would constitute professional misconduct within the meaning of New York Education Law §6530(9)(c). Therefore, the Second and Third Specifications were sustained.

The Hearing Committee further concluded that the Fourth and Fifth Specifications should be sustained. Respondent's Oklahoma medical license was suspended following a hearing held by the Oklahoma Board. As a result, Respondent is guilty of professional misconduct in violation of New York Education Law §6530(9)(b) [Fourth Specification] and §6530(9)(d) [Fifth Specification].

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 was convicted of defrauding the Oklahoma Medicaid program by submitting false medical claims for a substantial amount of money. She failed to appear at this hearing to present any evidence which might mitigate the sanction to be imposed. Respondent did submit materials in which she claimed that she had not practiced medicine in New York State since 1973, and was in the process of closing her Oklahoma practice. (See, Respondent's Exhibit A). Respondent also indicated that she had attempted to surrender her New York medical license in June, 1994. (See, Respondent's Exhibit B). Under the circumstances, the Hearing Committee determined that revocation was the appropriate sanction.

APPENDIX I

**PETITIONER'S
EXHIBIT**

9-13-99
Lm / recd

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

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IN THE MATTER : NOTICE OF
OF : REFERRAL
LILA V. NEVREKAR, M.D. : PROCEEDING

-----x

TO: LILA V. NEVREKAR, M.D.
1902 Gordon Cooper Drive
Shawnee, Oklahoma 74801

48-05 42nd Street, Apartment 2G
Long Island City, New York 11104

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 24th day of August, 1994, at 10:00 o'clock in the forenoon of that day in Room 2509, Corning Tower Building, 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

PET.
EX
I

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 August 14, 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 August 14, 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 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
July 13, 1994


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

Inquiries should be addressed to:

Joseph Huberty
Assistant 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
LILA V. NEVREKAR, M.D. : CHARGES

-----X

LILA V. NEVREKAR, M.D., the Respondent, was authorized to practice medicine in New York State on August 21, 1973, by the issuance of license number 117145 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine in New York State. Respondent's address as shown on Respondent's last registration with the New York State Education Department is: 48-05 42nd Street, Apartment 2G, Long Island City, N.Y. 11104.

FACTUAL ALLEGATIONS

A. On or about January 21, 1993, in the District Court of Oklahoma County, State of Oklahoma (Case #CF-93-170), upon a plea of guilty, Respondent was convicted of Medicaid Fraud, a felony. Respondent was fined Seventeen Thousand Dollars (\$17,000.00) and sentencing was deferred to March 4, 1996.

B. The basis of the charge of Medicaid Fraud against Respondent was her filing of falsified Medicaid claims. This conduct would constitute professional misconduct under N.Y. Educ. Law §6530(2) (practicing fraudulently), (16) (a willful failure

to comply with substantial provision of state law governing the practice of the profession), and/or (21) (willfully making or filing a false report).

C. Medicaid Fraud, if committed in New York State, is a violation of New York Soc. Services Law; §366-b, a crime.

D. The filing of falsified Medicaid claims, a written instrument, if committed in New York State, is a violation of Sec. 175.30 of the Penal Law of the State of New York, a crime.

E. By Findings of Fact, Conclusions of Law and Order dated May 20, 1993 the Oklahoma State Board for Medical Licensure and Supervision (hereinafter Oklahoma State Board) found that on or about January 21, 1993 in the District Court of Oklahoma County, State of Oklahoma (Case #CF-93-170), upon a plea of guilty, Respondent was convicted of one count of Medicaid Fraud in violation of 56 OS 1991, Sec. 1006(B) (Oklahoma State Statute), a felony, and fined Seventeen Thousand Dollars (\$17,000.00).

F. The Oklahoma State Board disciplined Respondent by suspending Respondent's License to practice the profession in the State of Oklahoma for a period of three days and directed that Respondent pay the costs of the disciplinary proceedings before the Oklahoma State Board.

G. The Conduct found by the Oklahoma State Board would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(9)(a)(i) and/or(iii).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CONVICTION OF A CRIME IN ANOTHER JURISDICTION

Respondent is charged with having been 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 within the meaning of N.Y. Educ. Law §6530(9)(a)(iii) (McKinney Supp. 1994) in that Petitioner charges:

- 1) The facts in paragraphs A, B, C, and/or D.

SECOND AND THIRD SPECIFICATIONS

HAVING BEEN FOUND GUILTY IN AN ADJUDICATORY
PROCEEDING OF HAVING VIOLATED A STATE STATUTE

Respondent is charged with having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation pursuant to a final decision or determination where

the violation would constitute professional misconduct within the meaning of N.Y. Educ. Sec. 6530(9)(c) (McKinney Supp. 1994) in that Petitioner charges:

- 2) The facts in paragraphs A,B,C,and/or D.
- 3) The facts in paragraphs B,E,F,and/or G.

FOURTH SPECIFICATION

HAVING BEEN FOUND GUILTY OF IMPROPER PROFESSIONAL PRACTICE
OR PROFESSIONAL MISCONDUCT BY ANOTHER STATE

Respondent is charged with 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 within the meaning of N.Y Educ. Law §6530(9)(b) (McKinney Supp. 1994) in that, Petitioner charges:

- 4) The facts in paragraph's B,C,D,E,F and/or G.

FIFTH SPECIFICATION

HAVING HIS/HER LICENSE TO PRACTICE
MEDICINE SUSPENDED BY A DISCIPLINARY
AGENCY OF ANOTHER STATE

Respondent is charged with having her license to practice medicine suspended 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 within the meaning of NY Educ. law §6530(9)(d) (McKinney Supp. 1994) in that Petitioner charges:

5) The facts in paragraphs B,C,D,E,F and/or G.

Dated: Albany, New York

July *12*, 1994



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

Inquires to: Joseph Huberty, Assistant Counsel
Bureau of Professional Medical Conduct
(518) 473-4282