



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

September 30, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kevin P. Donovan, Esq.
NYS Department of Health
Corning Tower-Room 2438
Empire State Plaza
Albany, New York 12237

Jijibhoy Patel, M.D.
2427 North California Street, Suite 12
Stockton, California 95204-5507

Effective Date: 10/07/96

RE: In the Matter of Jijibhoy Patel, M.D.

Dear Mr. Donovan and Dr. Patel:

Enclosed please find the Determination and Order (No. 96-231) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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), "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.

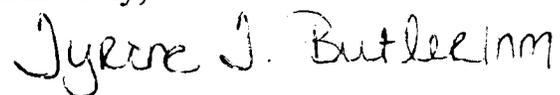
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
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 nm". The signature is written in a cursive style.

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
JIJIBHOY PATEL, M.D.**

**DETERMINATION
AND
ORDER**

BPMC-96-231

A Notice of Referral Proceedings and Statement of Charges, both dated August 9, 1996 were served upon the Respondent, **JIJIBHOY PATEL, M.D. JOSEPH G. CHANATRY, M.D.**, Chairperson, **AARON STEVENS, M.D.** and **MR. 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on September 18, 1996.

The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **KEVIN P. DONOVAN, ESQ.**, of Counsel. The Respondent appeared in person on his own behalf.

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 where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(i). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis 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.

1. Jijibhoy Patel, M.D., the Respondent, was authorized to practice medicine in New York state on April 28, 1971 by the issuance of license number 108512 by the New York State Education Department. (Pet's. Ex. 1).
2. The Respondent was convicted of two counts of felony attempted income tax evasion, in that, he was found guilty of said crimes in the United States District Court for the Eastern District of California, and on September 30, 1992, he was sentenced to thirty six months of imprisonment, with thirty months suspended; probation for five years; restitution of monies owed; and 640 hours of community service. (Pet's. Exs. 3 and 4).
3. The Respondent actually served four (4) months in prison.
4. The Respondent currently lives and practices medicine in Stockton, California. He appeared at this hearing on his own behalf.

5. Respondent's Exhibit A, includes an "Accusation" by the Medical Board of California, (hereinafter "California Board") dated March 16, 1994 and a "Stipulation in Settlement" between the Respondent and the California Board dated, August 23, 1995.

6. In the "Stipulation in Settlement" the Respondent acknowledged that he had been convicted in the United States District Court of two counts of income tax evasion. (Resp's. Ex. A).

7. Based on the Respondents' admission, the "Stipulation in Settlement" provided that the physician's and surgeon's certificate number C-38717, heretofore issued to Jijibhoy J Patel, M.D., is hereby revoked; provided, however, that said revocation is stayed and Respondent is placed on probation for a period of two (2) years upon the following terms and conditions:
 - A. Within 15 days after the effective date of this decision the Respondent shall provide the Division, or its designee, proof of service that Respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive Officer at every hospital in California where privileges or membership are extended or where Respondent is employed to practice medicine and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended to Respondent.

- B. Within 60 days of the effective date of this decision, Respondent shall submit to the Division or its designee for its prior approval a community service program in which Respondent shall provide free medical services on a regular basis to a community or charitable facility or agency for a least eight hours a month for the first 12 months of probation.

- C. Within 60 days of the effective date of this decision, Respondent shall enroll in a course in Ethics approved in advance by the Division or its designee, and shall successfully complete the course during the first year of probation.

- D. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments and other orders.

- E. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

- F. Respondent shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep the Division informed of his addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record.

- G. Respondent shall appear in person for interviews with the Division, its designee or its designated physician(s) upon request at various intervals and with reasonable notice.
- H. In the event Respondent should leave California to reside or to practice outside the State or for any reason should Respondent stop practicing medicine in California, Respondent shall notify the Division or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which Respondent is not engaging in any activities defined in Section 2051 and 2052 of the Business and Professions code. All time spent in an intensive training program approved by the Division or its designee shall be considered as time spent in the practice of medicine. Periods of temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary period.
- I. Upon successful completion of probation, Respondent's certificate shall be fully restored.
- J. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

K. The Respondent is hereby ordered to reimburse the Division the amount of \$1,100.00 within 90 days from the effective date of this decision for its investigative costs. Failure to reimburse the Division's cost of its investigation shall constitute a violation of the probation order, unless the Division agrees in writing to payment by an installment plan because of financial hardship. The filing of bankruptcy by the Respondent shall not relieve the Respondent of his responsibility to reimburse the Division for its investigative costs.

L. Following the effective date of this probation, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily tender his certificate to the Board. The Division reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation. (Resp's. Ex. A).

8. The "Stipulation in Settlement" was adopted by the California Board and was ordered effective on October 16, 1995. (Resp's. Ex. A).

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

CONVICTION OF A CRIME UNDER FEDERAL LAW

Respondent is charged with professional misconduct within the meaning of New York Education Law §6530(9)(a)(i) (McKinney Supp. 1996) in that he was convicted of committing an act constituting a crime under federal law.

SUSTAINED (3-0)

DETERMINATION OF THE HEARING COMMITTEE

The evidence in this case indicates that the Respondent was convicted of two (2) felony counts of Attempted Income Tax Evasion in the United States District Court of the Eastern District of California.

Based on this conviction, the California Board revoked the Respondents California medical certificate, stayed the revocation and placed him on probation for a period of two years. The terms of probation are enumerated in our Finding of Fact No. 7.

After a review of the entire record in this matter, the Hearing Committee determines that an appropriate penalty in this case would be to suspend the Respondent's license to practice medicine in New York State for a period to coincide with the probation imposed by the California Medical Board. In order for the Respondent to have his New York State medical license restored, he must submit to the Office of Professional Medical Conduct evidence that he has satisfactory fulfilled all of the terms of his California probation and that his California medical certificate has been fully restored.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby **SUSPENDED** for a period to coincide with the probation imposed by the California Medical Board.

In order for the Respondent to have his New York State medical license restored, he must submit to the Office of Professional Medical Conduct evidence that he has satisfactorily fulfilled the terms of his California probation and that his California medical certificate has been fully restored.

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: Utica, New York
Sept 26, 1996

Joseph G. Chanatry M.D.

JOSEPH G. CHANATRY M.D.

AARON STEVENS, M.D.
MR. ANTHONY C. BIONDI



APPENDIX I

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



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IN THE MATTER : NOTICE OF
OF : REFERRAL
JIJIBHOY PATEL, M.D. : PROCEEDING

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TO: JIJIBHOY PATEL, M.D.
2427 North California St. - Suite 12
Stockton, California 95204-5507

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 18th day of September, 1996, at 10:00 in the forenoon of that day at the Legislative Office Building, Room 104A, Empire State Plaza, Albany, New York 12248.

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 September 9, 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 September 9, 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
August 9, 1996


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

Inquiries should be addressed to:

Kevin P. Donovan
Associate 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
JIJIBHOY PATEL, M.D. : CHARGES

-----X

JIJIBHOY PATEL, M.D., the Respondent, was authorized to practice medicine in New York State on April 28, 1971, by the issuance of license number 108512 by the New York State Education Department.

FACTUAL ALLEGATIONS

ATTACHED

A. Respondent was convicted of two counts of felony income tax evasion, in that, he was found guilty of said crimes in the United States District Court for the Eastern District of California, and on September 30, 1992, he was sentenced to thirty six months of imprisonment, with thirty months suspended, probation for five years, restitution of monies owed, and 640 hours of community service.

SPECIFICATION OF MISCONDUCT

CONVICTION OF A CRIME UNDER FEDERAL LAW

Respondent is charged with professional misconduct within the meaning of New York Education Law §6530(9)(a)(i) (McKinney Supp. 1996) in that he was convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts of paragraph A.

DATED: August 9, 1996

Albany, New York

Peter D. Van Buren

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

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