



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

September 10, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jude Mulvey, Esq.
NYS Department of Health
Corning Tower Room 2503
Empire State Plaza
Albany, New York 12237

Robert Eugene Peppmeier, P.A.
Heart Clinic of the Ozarks, Suite 3800
1965 South Fremont Street
Springfield, Missouri 65804

Robert Eugene Peppmeier, P.A.
1530 East Erie Street Apt. 209B
Springfield, Missouri 65804

RE: In the Matter of Robert Eugene Peppmeier, P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 97-217) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

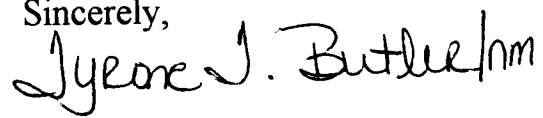
The notice of review served on the Administrative Review Board should be forwarded to:

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,

Handwritten signature of Tyrone T. Butler in black ink, followed by the initials 'nm'.

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

ROBERT EUGENE PEPPMEIER, P.A.

DETERMINATION

AND

ORDER

BPMC-97- 217

A Notice of Referral Proceeding, dated May 28, 1997 and Statement of Charges, dated May 20, 1997, were served upon the Respondent, **ROBERT EUGENE PEPPMEIER, P.A.** **LYON M. GREENBERG., M.D.** (Chairperson), **DAVID T. LYON., M.D.** and **GEORGE F. COUPERTHWAIT, JR.**, 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 ARMON**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on July 9, 1997. The Department of Health appeared by **HENRY M. GREENBERG**, General Counsel, by **JUDE MULVEY**, Esq., of Counsel. The Respondent did not appear. 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 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 was charged with professional misconduct pursuant to Education Law Section 6530(9)(b). 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 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 as a physician's assistant in New York State on July 23, 1986, by the issuance of registration number 003009 by the New York State Education Department. He has not been registered to practice in New York since December 31, 1986. (Ex.3)

2. The Iowa Board of Physician Assistant Examiners, by Decision and Order dated November 8, 1996, determined that Respondent, during the approximate period of at least July through October, 1995, engaged in unprofessional conduct by the excessive use of alcohol, drugs, narcotics, chemicals or other substances which impaired his ability to practice the profession with reasonable skill and safety and habitual addiction to drugs in violation of 645 Iowa Code Sections 325.11 (3)(e) and (w). (Ex. 4)
3. The Iowa Board, in its' Decision and Order, determined that Respondent's unprofessional conduct included, *inter alia*, the following:
 - a. the habitual abuse of the narcotic Demerol, in amounts of up to 1500mg. per day;
 - b. the practice of the profession while impaired, including the provision of care to six patients on October 24, 1996 while under the influence of Demerol;
 - c. the writing of prescriptions for Demerol for his personal use under patient names and "for office use";
 - d. the removal of drugs from the hospital supply without authorization and for his own personal use; and
 - e. the practice of the excessive dilution of Demerol and/or substitution of other substances in place of Demerol prescribed to patients and improper "wasting" of the proceeds. (Ex. 4)
4. The Iowa Board permanently revoked Respondent's registration and license to practice as a physician assistant and imposed a \$1,000 penalty and \$75 in hearing costs. (Ex. 4)
5. Respondent was personally served with the Notice of Hearing and Statement of Charges related to this proceeding on June 9, 1997. (Ex. 2)

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 Respondent had been properly served with the Notice of Hearing and Statement of Charges based on the Affidavit of Service (Ex. 2) and that it had therefore obtained jurisdiction over the Respondent as a result.

The Hearing Committee unanimously concluded that the Department met its burden of proof. The preponderance of the evidence demonstrates that Respondent was found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state. The basis for the decision by the Iowa Board was conduct by the Respondent which, had it occurred in New York, would have constituted professional misconduct pursuant to New York Education Law Sections 6530(7) [practicing the profession while impaired by alcohol, drugs, physical or mental disability] and/or 6530(8) [being a habitual abuser of narcotics, barbituates, amphetamines, hallucinogens or other drugs having similar effect]. The Hearing Committee determined to sustain the Specification set out in 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.

In reaching its determination, the Committee considered the seriousness of the underlying acts of misconduct committed by Respondent in his practice as a physician assistant and his history of substance abuse. It was also noted that Respondent has not been registered to practice in New York

since 1986 and that he made no indication of a desire to retain his New York license by appearing or providing evidence on his behalf, despite his knowledge of the pendency of this proceeding. The Committee concluded that a revocation of Respondent's physician assistant license was the only appropriate penalty.

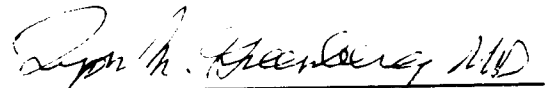
ORDER

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

1. The Specifications contained within the Statement of Charges (Ex. 1) are **SUSTAINED**, and
2. Respondent's license to practice as a Physician Assistant in New York be and hereby is **REVOKED**.
3. This Order shall be effective upon service on the Respondent by personal service or by certified or registered mail.

Dated: *Troy*, New York

August 22, 1997



LYON M. GREENBERG, M.D. (Chairperson)

**DAVID T. LYON, M.D.
GEORGE T. COUPERTHWAIT, JR.**

To: Jude Mulvey, Esq.
NYS Department of Health
Corning Tower, Room 2503
Empire State Plaza
Albany, New York 12237-0032

Robert Eugene Peppmeier, P.A.
1530 East Erie Street- Apt. 209B
Springfield, Missouri 65804

Robert Eugene Peppmeier
Heart Clinic of the Ozarks, Suite 3800
1965 South Fremont St.
Springfield, Missouri 65804

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

-----X

IN THE MATTER : NOTICE OF
OF : REFERRAL
ROBERT EUGENE PEPPMEIER, P.A. : PROCEEDING

-----X

TO: ROBERT EUGENE PEPPMEIER, P.A.
1530 East Erie Street
Apt. 209B
Springfield, MO 65804

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 9th day of July, 1997 at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

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

EXHIBIT
Petitioner's
#1 *Recd*
7-9-97 RWH

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, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, 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 July 1, 1997.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge or Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before June 27, 1997 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 28, 1997


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

Inquiries should be addressed to:

Jude Brearton Mulvey
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2503
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
ROBERT EUGENE PEPPMEIER, P.A. : CHARGES

-----X

ROBERT EUGENE PEPPMEIER, P.A., the Respondent, was authorized to practice as a physician's assistant in New York State on July 23, 1986, by the issuance of registration number 003009 by the New York State Education Department. Respondent is not currently registered in New York State.

FACTUAL ALLEGATIONS

1. The Iowa Board of Physician Assistant Examiners, by Decision and Order dated November 8, 1996, determined that Respondent, during the approximate period of at least July through October 1995 engaged in unprofessional conduct by the excessive use of alcohol, drugs, narcotics, chemicals or other substances which impaired Respondent's ability to practice the profession with reasonable skill and safety and habitual addiction to drugs in violation of 645 Iowa Code §§ 325.11(3)(e) and (w).


2. More specifically, the Iowa Board is determination that respondent engaged in unprofessional conduct included, inter alia, the following:
- Respondent habitually abused Demerol, using up to 1500 mg per day.
 - Respondent practiced the profession while impaired, providing care to six patients on 10/24/95 while under the influence of Demerol.
 - Respondent wrote prescriptions for Demerol for his personal use under "patients' names" and "for office use".
 - Respondent took drugs from the hospital supply without authorization and for his own personal use.
 - Respondent excessively diluted Demerol and/or substituted substances in place of Demerol prescribed to patients and improperly "wasted" the proceeds.
3. The Iowa Board permanently revoked Respondent's registration and license to practice as a physician assistant and imposed a \$1,000 penalty and \$75.00 in hearing costs.
4. The conduct underlying the Iowa Board's finding that Respondent was guilty of unprofessional conduct would, if committed in New York State, constitute professional misconduct under N.Y. Education Law §6530(7) [practicing the profession while impaired by alcohol, drugs, physical disability or mental disability] and/or §6530(8) [habitual abuser of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects] (McKinney Supp. 1997).

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Education Law §6530(9)(b) (McKinney Supp. 1997) by reason of 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 the State of New York State, in that Petitioner charges:

1. The facts in paragraphs 1,2,3, and/or 4.

DATED: *May 20*, 1997
Albany, New York


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