



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

April 2, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Judith A. Stein, M.D.

REDACTED

Joseph Huberty, Esq.
NYS Department of Health
Bureau of Professional
Medical Conduct
Corning Tower - Room 2438
Empire State Plaza
Albany, New York 12237

RE: In the Matter of JUDITH A. STEIN, M.D.

Dear Dr. Stein and Mr. Huberty:

Enclosed please find the Determination and Order (No. BPMC-93-51) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

New York State Department of Health
Office of Professional Medical Conduct
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 than 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
Corning Tower -Room 2503
Empire State Plaza
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.

Very truly yours,

REDACTED

J
Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nam
Enclosure

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

-----X
IN THE MATTER :

OF :

JUDITH A. STEIN, M.D. :

HEARING
COMMITTEE'S
DETERMINATION

AND

: ORDER NO. BPMC-93-51
-----X

A Notice of Hearing and Statement of Charges, both dated December 17, 1992, were served upon the Respondent, Judith A. Stein, M.D. **GEORGE F. COUPERTHWAIT, JR., ALBERT L. BARTOLETTI, M.D.** and **ROBERT M. KOHN, 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. **BENJAMIN J. MIGLIORE**, Administrative Law Judge, served as the hearing officer. A hearing was held on February 2, 1993 at the Corning Tower Building, 25th Floor Conference Room, Room 2509, Empire State Plaza, Albany, New York 12237. The Department of Health appeared by Joseph Huberty, Esq., Assistant Counsel. The Respondent did not appear in person 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

The proceeding 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 N.Y. Education Law Section 6530(9). (McKinney Supp. 1992). 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 the 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 N.Y. Education Law Section 6530(9)(d) (McKinney Supp. 1992). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order.

FINDINGS OF FACT

The following Findings of Fact were made after review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. The 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. Judith A. Stein, M.D. was authorized to practice medicine in New York State on April 3, 1981 by the issuance of license number 145655 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine in this State. (Pet. Ex. #1)

2. On September 8, 1988, the State of Connecticut, Bureau of Health Systems Regulation of the Department of Health Services, by consent order, imposed disciplinary action upon Respondent. (Pet. Ex. #3)

3. The conduct underlying the consent order consisted of the Respondent admitting that "Due to mental illness she is unable to practice medicine and surgery with reasonable skill and safety." (Pet. Ex. #3)

4. Respondent's license to practice medicine and surgery was revoked by the State of Connecticut on September 8, 1988. (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 unanimously concluded that the Department had met its burden of proof. The preponderance of the evidence clearly demonstrated that Respondent's conduct underlying the consent order resulting in the surrender and revocation of her

license constituted professional misconduct as defined in N.Y. Education Law Section 6530(9)(d). The Hearing Committee, therefore, sustained the specification of misconduct contained 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 Respondents medical license 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 of reprimand and the imposition of monetary penalties.

A physician's license to practice medicine is a privilege granted to members of the profession. Respondent admitted in the Connecticut Consent Order that she is unable to practice medicine and surgery with reason le skill or safety due to her mental condition. By her admission, she is unable to conform to the acceptable standards of the medical profession.

Respondent made no attempt to respond to the charges of the N.Y. State Board for Professional Medical Conduct nor to defend herself at the hearing. She did not personally appear nor was she represented by counsel.

Respondent's voluntary surrender and revocation of her license in Connecticut, coupled with her own admission that she lacks the capacity to practice medicine due to her mental illness,

constitutes medical misconduct in this State. Accordingly, the Hearing Committee concluded that revocation is the appropriate sanction.

ORDER

Based upon the foregoing, it is HEREBY ORDERED THAT:

1. The specification of professional misconduct contained in the Statement of Charges (Pet. Ex. #1) is SUSTAINED, and
2. Respondent's license to practice medicine in the State of New York is REVOKED.

DATED: Binghamton, New York

March 23, 1993

REDACTED

~~GEORGE F. COOPERHAWK, JR.~~
Chairperson

Albert L. Bartoletti, M.D.
Robert M. Kohn, M.D.

TO: Judith A. Stein, M.D.

REDACTED

Joseph Huberty, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower - Room 2438
Empire State Plaza
Albany, New York 12237

EXHIBIT 1
ID. EVD
DATE: 2-2-93
BETSY HELM, CSR., RPR

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: JUDITH A. STEIN, M.D. : PROCEEDING
: :
-----X

TO: JUDITH A. STEIN, M.D.

REDACTED

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. 1992, as amended by ch 37, Laws of 1992) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 2nd day of February, 1993 at 11:00 o'clock in the forenoon of that day at Room 2509, 25th Floor Conference Room, 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 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 Larry Storch, Administrative Law Judge, New York State Department of Health, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, as well as the Department of Health attorney indicated below, on or before January 25, 1993 .

You may file a written answer, brief, and affidavits with the Committee. Seven copies of all papers you wish to submit must be filed with Judge Storch at the address indicated above on or before January 25, 1993 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 Judge Storch 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
December 17, 1992

REDACTED

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

Inquiries should be addressed to:

Joseph Huberty
Assistant Counsel
Division of Legal Affairs
Bureau of Professional Medical Conduct
Corning Tower Building
Room 2429
Empire State Plaza
Albany, New York 12237
(518) 473-4282