



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 17, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ann Gayle, Esq.
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

Robert D. Stebbins, M.D.
1540 Oak Creek Drive
Palo Alto, CA 94304

PUBLIC

RE: In the Matter of Robert D. Stebbins, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 98-217) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 cursive script, followed by a vertical line and 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 D. STEBBINS, M.D.

Respondent

DETERMINATION

AND

ORDER

BPMC-98-217

A Notice of Referral Proceeding and Statement of Charges, both dated June 22, 1998, were served upon the Respondent, Robert D. Stebbins, M.D. CAROLYN SNIPE, (Chair), LINDA LEWIS, M.D. and ROBERT SCHILLER, M.D. duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee (hereinafter the 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 Ann Gayle, Associate 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 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 executing a Stipulation for Surrender of License with the Division of Medical Quality, Medical Board of California, State of California (hereinafter the California Board), wherein he surrendered his license to practice medicine in California based on an Accusation filed against him in that state. The Accusation alleged that the Respondent in the course of his medical practice, engaged in a sexual and romantic relationship with two individual while they were his patients. 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 Committee in arriving at a particular finding.

Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Robert D. Stebbins, M.D. (hereinafter, "Respondent"), was licensed to practice medicine in New York State on August 2, 1972, by the issuance of license number 113155 by the New York State Education Department. (Pet. Ex. 2).

2. On or about August 18, 1997, the Respondent executed a Stipulation for Surrender of License in California based on the Accusation filed in that state, dated May 22, 1997, which alleged the Respondent violated California statutes. (Pet. Ex. 4)

3. The Accusation included allegations that the Respondent had sexual relations with two patients while the patients were under his care. Specifically, the Respondent allegedly had sexual relations with Patient A.C. from January 1996 to August 1996 and with Patient C.O. from September 1996 through January 1997. (Pet. Ex. 3)

4. On or about September 30, 1997, the California Board issued a Decision adopting the Stipulation for Surrender of License wherein the Respondent surrendered his license to practice medicine in California. (Pet. Ex. 4)

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 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 by a professional disciplinary agency of another state. The underlying conduct which was the basis for the action by California would constitute professional misconduct in New York. Specifically, the 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(5) (Practicing the profession with incompetence 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(20) (Conduct which evidences moral unfitness).

DETERMINATION AS TO PENALTY

The 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 Committee views the actions which resulted in the California Stipulation and subsequent surrender to be extremely egregious and a serious breach of the fiduciary relationship between a physician and his patient. Respondent did not appear nor was

he represented by counsel. The Committee views the Respondent's conduct as evidence of a moral unfitness which makes him unsuitable to practice medicine. It is the Committee's duty to protect the consumers of medical services of this state. The Committee unanimously determined that a person capable of such conduct should not be afforded the privilege of practicing medicine in New York and that revocation is the only appropriate sanction under the circumstances.

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

September 11, 1998



CAROLYN SNIPE (CHAIR)

Linda Lewis, M.D.

Robert Schiller, M.D.

TO: Ann Gayle, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Robert D. Stebbins, M.D.
1540 Oak Creek Drive
Palo Alto, CA 94304

APPENDIX ONE

IN THE MATTER
OF
ROBERT DEAN STEBBINS, M.D.

STATEMENT
OF
CHARGES

Robert Dean Stebbins, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 2, 1972, by the issuance of license number 113155 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 22, 1997, the Medical Board of California charged Respondent with Sexual Misconduct/ Gross Negligence/Unprofessional Conduct, in violation of Section 2234(b) and Section 2234 of the California Business and Professions Code ("Code") and Repeated Acts of Negligence, in violation of Section 2234(c) of the Code, for engaging in romantic and sexual relationships with patient A.C. from January 1993 to approximately August 1996 and with patient C.O. from approximately February 1996 to January 1997.

While said charges were pending, Respondent, in a Stipulation for Surrender of Licensure, surrendered his license to practice medicine in the State of California, effective September 30, 1997.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

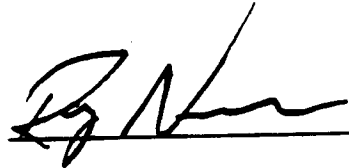
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in

N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1998) 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 §6530(3), (4), and (20)) as alleged in the facts of the following:

1. Paragraph A.

DATED: June 22, 1998
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct