



# 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*

March 2, 1994

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Samuel Gregory, Esq.  
Lazzaro, Gregory & Hatzipetros  
360 Court Street  
Brooklyn, New York 11231

Terrance Sheehan  
NYS Dept. of Health  
Div. of Legal Affairs  
5 Penn Plaza, 6th Floor  
New York, NY 10001

Teresita Tan, M.D.  
108 Midwood Street  
Brooklyn, New York 11225

**RE: In the Matter of Teresita Tan, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. BPMC 94-28) 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.

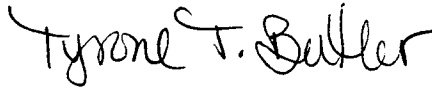
As prescribed by the New York State Public Health Law, §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he determination of a committee on professional medical conduct may be reviewed by the administrative review board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

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 of the Hearing Committee's Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to the New York State Department of Health, Bureau of Adjudication, Corning Tower-Room 2503, Empire State Plaza, Albany, New York 12237-0030, **Attention: James F. Horan, Esq., Administrative Law Judge.** 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,



Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:lar  
Enclosure

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

X

IN THE MATTER :

OF :

TERESITA TAN, M.D. :

DETERMINATION

AND

ORDER

X

No. BPMC 94-28

CAROLYN C. SNIPE, Chairperson, LINDA D. LEWIS, M.D., and JOSEPH GRECO, M.D., duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(10)(e) and 230(12) of the Public Health Law. ELLEN B. SIMON, Esq., Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this determination.

STATEMENT OF CHARGES

The Statement of Charges charges the Respondent with professional medical misconduct within the meaning of New York Education Law Section 6530(9)(c) by reason of her having been found, on September 11, 1991 by the Commissioner of the New York

State Department of Social Services, to have violated, inter alia, 18 NYCRR 515.2(b)(1) and (12), which prohibits the submission of false claims to the Medical Assistance Program and the provision of medical care that fails to meet professionally recognized standards, such finding resulting in Respondent's suspension for five years from the New York State Medicaid Program.

These charges are more specifically set forth in Department's Exhibit 2, pp. 5-6 and Department's Exhibit 3, pp. 1-2.

#### SUMMARY OF PROCEEDINGS

|                                      |  |
|--------------------------------------|--|
| Notice of Referral Proceeding dated: | March 23, 1993   |
| Statement of Charges dated:          | March 23, 1993   |
| Hearing Date:                        | October 20, 1993   |
| Deliberation Date:                   | December 3, 1993   |
| Place of Hearing:                    | NYS Department of Health<br>5 Penn Plaza<br>New York, New York   |
| Petitioner Appeared By:              | Peter J. Millock, Esq.<br>General Counsel<br>NYS Department of Health<br>By: Terrance Sheehan, Esq.<br>Associate Counsel |
| Respondent Appeared By:              | Samuel Gregory, Esq.<br>360 Court Street<br>Brooklyn, New York   |

#### WITNESSES

|                     |                                      |
|---------------------|--------------------------------------|
| For the Respondent: | Teresita Tan, M.D.<br>Concepcion Tan |
|---------------------|--------------------------------------|

## FINDINGS OF FACT

Numbers in parentheses refer to transcript pages or exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding.

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

1. On more than one occasion, Respondent, without a documented blood glucose level, prescribed to patients who were former cocaine and heroin abusers injectable insulin and syringes (Dept.'s 2, pp. 6-7: patients T.W., F.G., and D.S.).

2. On more than one occasion, Respondent prescribed Valium to alcohol abusers and users of controlled drugs (Dept.'s 2, pp. 5-7: patients C.A., D.T., and D.S.).

3. Respondent diagnosed and issued prescriptions for peptic ulcer and bronchial asthma without any documented medical indication (Dept.'s 3, pp. 6-19).

4. From June 6, 1988 through January 9, 1989, Respondent submitted to Medicaid bills for nonexistent or unnessesary medical services (Dept.'s 3, pp. 6-19).

These findings of fact are further evidence by Dept.'s 4, page 6.

### CONCLUSIONS

1. Respondent practiced medicine fraudulently, and with incompetence and negligence on more than one occasion.
2. Respondent violated 18 NYCRR 515.2 (b)(1) and (12).

### VOTE OF THE HEARING COMMITTEE

The Hearing Committee voted unanimously that the **SPECIFICATION** was **SUSTAINED**.

### DETERMINATION OF THE HEARING COMMITTEE AS TO PENALTY

The Hearing Committee determined, by a vote of 3 to 0, that the Respondent's license to practice medicine in the State of New York be **REVOKED**.

Overall, the Committee observed that at the hearing Respondent rambled and had difficulty responding appropriately to questions (e.g., T 37, lines 22-25; 38, lines 1-6; 46, lines 18-25; 47, lines 1-8; 48, lines 19-25; 49, lines 1-5).

Respondent began treatment with a psychiatrist, Dr. Adina Papadumitru, on July 2, 1984; Dr. Papadumitru determined that Respondent was disabled for one year beginning on September 28, 1985 (Resp.'s E). Respondent returned to the practice of medicine in June 1986 but was still suffering from a psychiatric condition (T 34, lines 18-21).

By Respondent's own admission, between June 1986 and 1989 her psychiatric condition continued (T 21, lines 16-25; 22, lines 1-10).

Respondent admitted that as a consequence of such condition, her medical practice was substandard (T 21, lines 11-15).

Respondent's sister testified that during the period between June 1986 and 1989 Respondent's psychiatric condition worsened and Respondent was incapable of taking care even of herself (T 56, lines 3-17 and 24-25; 57; and 58, lines 1-3).

There is no evidence--in fact there is evidence to the contrary--that Respondent's admitted illness has been addressed since December 1985 (T 66, lines 6-11; 67, lines 14-21). It seems clear, moreover, from Respondent's contradictory testimony, that she will not seek treatment of that illness (T 36, lines 15-18; 49, lines 11-23).

Under these circumstances, having considered all possible penalties, the Hearing Committee finds that the penalty of license revocation is fair and appropriate.

**ORDER**

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

Respondent's license to practice medicine in the State of New York is **REVOKED.**

**Dated: Queens, New York  
December , 1994**

  
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**CAROLYN C. SNIPE (Chairperson)**

**LINDA D. LEWIS, M.D.  
JOSEPH GRECO, M.D.**



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

-----X  
IN THE MATTER : STATEMENT  
OF : OF  
TERESITA V. TAN, M.D. : CHARGES  
-----X

TERESITA V. TAN, M.D., the Respondent, was authorized to practice medicine in New York State on August 1, 1972 by the issuance of license number 113834 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

**SPECIFICATION**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(c), (McKinney Supp. 1993) in that she was found in violation of a state or federal statute or regulation pursuant to a final decision or determination in which no appeal is pending, which violation resulting in the final decision or determination constitutes professional misconduct pursuant to N.Y. Educ. Law Sections 6530(3), (5) (21) and/or (32) (McKinney Supp. 1993). Specifically, Petitioner charges:

On September 11, 1991, the Commissioner of the New York State Department of Social Services, after a formal hearing, found that Respondent had violated, inter alia, 18 NYCRR 515.2(b)(1) and (12), which prohibit the submission of false claims to the Medical Assistance Program and the provision of medical care that fails to meet professionally recognized standards. Among the violations found by the Commissioner were:

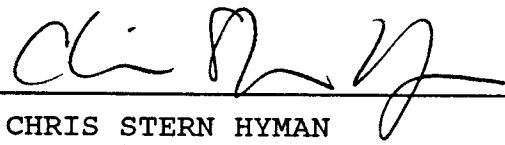
- i. The prescription of injectable insulin and syringes to a patient with a normal blood sugar level and with a history of heroin and cocaine abuse.
- ii. Routine prescription of Valium to controlled drug and alcohol abusers.
- iii. The diagnosis and issuance of prescriptions for peptic ulcers and bronchial asthma without medical indication.
- iv. Respondent's submission to Medicaid of bills, covering the period of June 6, 1988 through January 9, 1988, in the total amount of

\$643,572, for non-existent or unnecessary  
medical services.

Based on these violations the Commissioner ordered that  
Respondent be suspended for five years from the New York State  
Medicaid Program.

DATED: New York, New York

*March 23, 1993*



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CHRIS STERN HYMAN  
Counsel  
Bureau of Professional Medical  
Conduct

## SUMMARY OF DEPARTMENT OF HEALTH HEARING RULES

(Pursuant to Section 301 SAPA)

The following items are addressed by the Uniform Hearing Procedures Rules of the New York State Department of Health:

Applicability

Definitions

Notice of Hearing

Adjournment

Answer or Responsive Pleading

Amendment of Pleadings

Service of Papers

Discovery

Hearing Officer/Pre-Hearing Conference

Pre-Hearing Conference

Stipulations and Consent Orders

The Hearing

Hearing Officer's Report

Exceptions

Final Determination and Order

Waiver of Rules

Time Frames

Disqualification for Bias

The exact wording of the rules is found at 10 NYCRR Part 51 of Volume 10 of the New York Code of Rules and Regulations. Each of the above items may be summarized as following:

51.1 Applicability. These regulations apply to most hearings conducted by the Department of Health.

51.2 Definitions.

1. "Commissioner" means Commissioner of the New York State Department of Health.
2. "CPLR" means Civil Practice Law and Rules.
3. "Department" means New York State Department of Health.
4. "Hearing Officer" means the person appointed to preside at the hearing or the person designated as administrative officer pursuant to Public Health Law Section 230.
5. "Party" means all persons designated as petitioner, respondent or intervenor.
6. "Report" means the Hearing Officer's summary of the proceeding and written recommendation or the findings, conclusions and determination of the hearing committee pursuant to Public Health Law Section 230.

51.3 The Department's Notice of Hearing and/or Statement of Charges should be served at least 15 days prior to the first hearing date, specify time, place and date(s) and should contain the basis for the proceeding.

51.4 Adjournment. Only the Hearing Officer may grant an adjournment and only after he/she has consulted with both parties. In hearings pursuant to Public Health Law Section 230, an adjournment on the initial day may be granted by the hearing committee.

51.5 Answer to Responsive Pleading. A party may serve a response to the allegations of the Department.

51.6 Amendment to Pleadings. A party may usually amend papers if no substantial prejudice results by leave of the Hearing Officer.

51.7 Service of Papers. Except for the Notice of Hearing and/or Statement of Charges, all papers may be served by ordinary mail.

51.8 Disclosure. Generally, there is no disclosure of any kind and the Hearing Officer cannot require it, unless all parties agree. If agreed to, the Hearing Officer will ensure all parties proceed in accordance with their agreement. However, in a hearing in which revocation of a license or permit is sought or possible, a party may demand in writing that another party disclose the names of witnesses, documents or other evidence such other party intends to offer at the hearing. A demand for such disclosure must be served at least 10 days prior to the first scheduled hearing date. Disclosure or a statement that the party has nothing to disclose must be made at least 7 days before the first scheduled hearing date. A party that determines to present witnesses or evidence not previously disclosed must supplement its disclosure as soon as practicable. The Hearing Officer may, upon good cause shown, modify the times for demands for and response to disclosure or allow a party not to disclose or limit, condition or regulate the use of information disclosed and may preclude the introduction of evidence not disclosed pursuant to a demand.

51.9 Hearing Officer. He/she presides over the hearing and has the authority to ensure it is conducted in an orderly fashion. He/she may also order the parties to meet before the hearing to discuss the procedure. He/she does not have the authority to remove testimony from the transcript and/or dismiss charges unless authorized by delegation.

51.10 Stipulation and Consent and Surrender Orders. At any time prior to a final order, parties may resolve all or any issues by stipulation. An order issued pursuant to a stipulation has the same force and effect as one issued after hearing.

51.11 The Hearing. A party may have an attorney represent him or her. Failure to appear may result in an adverse ruling. A hearing may be combined with or separated from another hearing depending on whether such action will result in delay, cost or prejudice. While the rules of evidence as applied in a courtroom are not observed, witnesses must be sworn or give an affirmation

and each party has the right to present its case and to cross-examine. The Department has broad discretion to place documents into evidence. A record of the proceeding must be made. In enforcement cases, the Department has the burden of proof and of going forward. In matters relating to neglect or abuse of patients under Public Health Law Section 2803-d, the Hearing Officer may not compel disclosure of the identity of the person making the report or who provided information in the investigation of the report.

Complaints relating to Public Health Law Section 230 may not be introduced into evidence by either party and their production cannot be required by the Hearing Officer.

Claims that a hearing has been unreasonably delayed is treated as an affirmative defense (Section 51.5) or as part of claimant's case. The burden of going forward and of proof are on the claimant.

A verbatim record of the proceeding shall be made by any means determined by the Department. The record shall include notice of hearing and any statement of charges, responsive pleadings, motions, rulings, transcript or recording, exhibits, stipulations, briefs, any objections filed, any decision, determination, opinion, order or report rendered.

51.12 Hearing Officer's Report. In matters governed by Public Health Law Sections 230, 230-a and 230-b, the final report should be submitted not more than 52 days after completion of the hearing if service is effectuated by mail and not more than 58 days of service if effectuated personally. In all other matters, the Hearing Officer, within 60 days of the completion of the hearing, should submit a report.

51.13 Filing of Exceptions. Within 30 days of the date of a copy of the report of the Hearing Officer and proposed order or, within 15 days of a date a report of the hearing committee and proposed recommendation for hearings conducted pursuant to Public Health Law Section 230 is sent to the parties, any party may submit exceptions to said report and proposed order to the Supervising Administrative Law Judge. On notice of all parties, a party may request, before the expiration of the exception period, the Supervising Law Judge to extend the exception period. All parties have the opportunity to state their position on the extension on the record. Extensions may be granted on good cause shown; however, they are not granted to allow a party to respond to exceptions already filed.

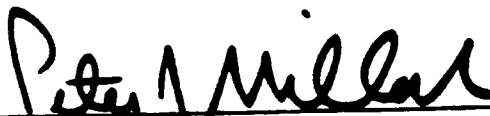
51.14 Final Determination Order. The hearing process ends when an order is issued by the Commissioner or his designee or the appropriate board of council. The order should state a basis for the decision. Each party receives a copy of the order.

51.15 Waiver of Rules. These rules and regulations may be dispensed with by agreement and/or consent.

51.16 Establishment, Construction, Rate Hearings. Hearings involving any of these issues have time limits concerning the issuance of notices of hearing of 365 days of receipt by the Department of a request for hearing.

51.17 Disqualification for Bias. Bias shall disqualify a Hearing Officer and/or a committee member in hearings governed by Public Health Law Section 230. The party seeking disqualification must submit to the hearing officer an affidavit pursuant to SAPA Section 303. Mere allegations are insufficient. The Hearing Officer rules on the request.

DATED: Albany, New York  
February 7, 1992

  
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PETER J. M. LLOCK  
General Counsel