



# 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*

November 17, 1994

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Elizabeth C. Hogan, Esq.  
Assistant Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2438  
Albany, New York 12237

Danielle Turns, M.D.  
15703 Flower Gap Road  
Borden, Indiana 47106

RECEIVED  
NOV 18 1994  
OFFICE OF PROFESSIONAL MEDICAL CONDUCT

RE: In the Matter of Danielle Turns, M.D.

Dear Ms. Hogan and Dr. Turns:

Enclosed please find the Determination and Order (No. BPMC-94-236) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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), "(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  
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,



Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:crc

Enclosure

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

**IN THE MATTER  
OF  
DANIELLE TURNS, M.D.**

**DETERMINATION  
AND  
ORDER**

BPMC-94-236

A Notice of Hearing and Statement of Charges, both dated August 17, 1994, were served upon the Respondent Danielle Turns, M.D. Daniel A. Sherber, M.D., Leo T. Fishel, Jr., M.D. and Louis T. Paris, 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, ESQ., Administrative Law Judge, served as the Administrative Officer. A hearing was held on September 29, 1994. The Department of Health appeared by Elizabeth C. Hogan, Esq., Assistant Counsel. The Respondent did not personally appear, but submitted written documentation on her behalf. 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 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 is charged with professional misconduct pursuant to Education Law Section 6530(9)(d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I. By execution of this Determination and Order, all members of the Hearing Committee acknowledge that they have read the record of these proceedings.

### **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. Danielle Turns, M.D. (hereinafter "Respondent") was authorized to practice medicine in New York State on August 7, 1968 by the issuance of license number 100855 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine.

2. The Kentucky State Board of Medical Licensure, by Agreed Order dated July 8, 1993 and an Amended Agreed Order dated December 12, 1993, pursuant to a Consent Agreement entered into between the Board and Respondent, took disciplinary action against Respondent. The board suspended Respondent for two (2) years, placed her on a five (5) year term of probation, mandated her participation in an Impaired Physicians Program, ordered that she refrain from the use of intoxicating or controlled substances, undergo random biological testing, and cease prescribing controlled substances for a period of two (2) years.

3. The conduct underlying the Kentucky Board's imposition of discipline upon Respondent was continued, active abuse of alcohol.

## **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 Committee concluded that the Department had met its burden of proof by demonstrating by a preponderance of the evidence that the Kentucky Board of Medical Licensure took disciplinary action against Respondent's license to practice Medicine in that State. The Conduct underlying the Kentucky Board's imposition of discipline, would have, if committed in New York State, constituted professional misconduct under New York Education Law Section 6530(8) [being a habitual abuser of alcohol]. Therefore, the Hearing Committee voted to sustain the Specification of professional misconduct contained within 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 licensee 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.

In reaching this determination, the Hearing Committee reviewed documents received as evidence on behalf of Respondent which listed a number of relapses following treatments for alcohol dependence. Such treatments included inpatient hospitalization and participation in residential programs. Respondent's most recent relapse appeared to have occurred in August, 1993. It was also noted that Respondent indicated no intent to practice in New York State, but expressed a desire to protect her New York license in the event she should apply for an Indiana license, where she has relocated from Kentucky. The Hearing Committee concluded that Respondent's impairment and the fact that the Kentucky Board placed a significant penalty on Respondent when imposing discipline

on her Kentucky license outweighed considerations of her future actions. Accordingly, the determination was made that revocation of Respondent's New York State license to practice medicine was the most appropriate penalty in this case.

**ORDER**

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

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

**DATED: Albany, New York**

Nov 7, 1994

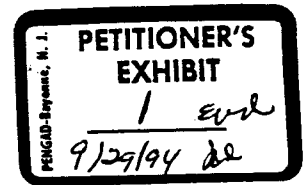


**DANIEL A. SHERBER, M.D. (Chairman)**

**LEO T. FISHEL, JR., M.D.  
LOUIS T. PARIS**

TO: Elizabeth C. Hogan  
Assistant Counsel  
New York State Department of Health  
Empire State Plaza  
Corning Tower - Room 2438  
Albany, New York 12237

Danielle Turns, M.D.  
15703 Flower Gap Road  
Borden, Indiana 47106



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

-----X

IN THE MATTER : NOTICE OF  
OF : REFERRAL  
DANIELLE TURNS, M.D. : PROCEEDING

-----X

TO: Danielle Turns, M.D.  
15703 Flower Gap Road  
Borden, Indiana 47106

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. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 29th day of September, 1994 at 10:00 o'clock in the forenoon of that day at Cultural Education Building, Room E, Concourse Level, 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 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 19, 1994.

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 19, 1994 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 17*, 1994

*Peter D. Van Buren*

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

Inquiries should be addressed to:

Elizabeth C. Hogan  
Assistant 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

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IN THE MATTER : STATEMENT  
OF : OF  
DANIELLE TURNS, M.D. : CHARGES

-----X

DANIELLE TURNS, M.D., the Respondent, was authorized to practice medicine in New York State on August 7, 1968, by the issuance of license number 100855 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department.

**FACTUAL ALLEGATIONS**

1. The Kentucky State Board of Medical Licensure, by Final Order dated July 8, 1993 and amended by agreement December 12, 1993 and pursuant to a Consent Agreement entered into between the Board and Respondent, took disciplinary action against Respondent. The Board suspended Respondent for two (2) years, placed her on a five (5) year term of probation, mandated her participation in an Impaired Physicians Program, ordered that she refrain from the use of intoxicating or controlled substances, undergo random biological testing, and cease prescribing controlled substances for a period of two (2) years.

2. The conduct underlying the Kentucky Board's imposition of discipline upon Respondent was continued, active abuse of alcohol. The Board, prior to July, 1993, was aware of the Respondent's alcoholism but chose not to impose discipline at that time, provided the Respondent continue successfully in the Kentucky Impaired Physician's program. In July and December, 1993, after a number of relapses by Respondent, the Board imposed discipline upon the Respondent.
  
3. The conduct underlying the Kentucky Board's imposition of discipline, would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(8) [being a habitual abuser of alcohol].

#### SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994) by reason of her having her license to practice medicine revoked, suspended or having other disciplinary action taken, where the conduct resulting in the revocation, suspension or other disciplinary action taken involving the license would, if committed in New York State constitute professional misconduct under the laws of New York State, in that Petitioner charges:

1. The facts in Paragraphs 1, 2 and 3.

DATED: *August 17*, 1994  
Albany, New York

*Peter D. Van Buren*

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