



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

December 22, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
Paul Robert Maher, Esq.
NYS Department of Health
Hedley Park Place
433 River Street – 4th Floor
Troy, New York 12180

Youra Tymochoko, D.O.
268 Stahl Avenue
Cortland, OH 44410-1138

RE: In the Matter of Youra Tymochoko, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-354) 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 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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY
DETERMINATION

**IN THE MATTER
OF
YOURA TYMOCHOKO, D.O.**

**AND
ORDER**

BPMC-00-354

A Commissioner's Order dated, October 7, 1999, and a Notice of Summary Hearing and Statement of Charges both dated October 17, 2000, were served upon the Respondent, **YOURA TYMOCHOKO, D.O.**

JERRY WAISMAN, M.D., Chairperson, **WALTER T. GILSDORF, M.D.** and **MILTON IRVING CAPLAN**, 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on December 13, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **PAUL ROBERT MAHER, ESQ.**, and **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent did not appear, but he did submit documents which were admitted in evidence (See Respondent's Exhibit A).

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 case, 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). A copy of the Commissioner's Order, Notice of Hearing and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: NONE

For Respondent: NONE

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. All Hearing Committee findings were unanimous unless otherwise specified.

1. **YOURA TYMOCHOKO, D.O.**, the Respondent, was authorized to practice medicine in New York State on September 10, 1973, by the issuance of license number 118077 by the New York State Education Department. (Pet's Ex. 4)

2. On April 14, 1999, the State Board of Ohio (hereinafter "Ohio Board"), by an Entry of Order (hereinafter "Ohio Order I"), summarily suspended Respondent's certificate to practice osteopathic medicine or surgery, based upon a determination that Respondent's "continued practice presents a danger of immediate and serious harm to the public". (Pet's Ex. 5)

3. By Commissioner's Summary Order, dated October 7, 1999, "Antonia C. Novello, M.D., M.P.H., Commissioner of Health, pursuant to N.Y. Public Health Law §20.0 (McKinney 1990 and Supp. 1999), upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction (Ohio) has made a finding substantially equivalent to a finding that the practice of medicine

by YOURA TYMOCHKO (the Respondent) in that jurisdiction constitutes an imminent danger to the health of its people, ****".

The Commissioner "ORDERED, pursuant to N.Y. Public Health Law §230(12)(b) (McKinney 1990 and Supp. 1999), that effective immediately, Respondent shall not practice medicine in the State of New York.

Any practice of medicine in the State of New York in violation of this (Commissioner's) Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512."

4. On September 13, 2000, the Ohio Board, by an Entry of Order (hereinafter "Ohio Order II"), indefinitely SUSPENDED Respondent's certificate to practice osteopathic medicine and surgery, based upon Respondent's inability to practice medicine according to acceptable and prevailing standards of care by reason of mental illness and his having committed an act that constitutes a felony. (Pet's Ex. 5)

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct resulting in the Ohio Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to:

- New York Education Law §6530(7) (practicing the profession while impaired by mental disability).

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) 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 New York State.

VOTE: SUSTAINED (3-0)

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by reason of having his license to practice medicine suspended or having had other disciplinary action taken by a duly authorized agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicated that the Respondent is an impaired physician by reason of mental illness.

The State Medical Board of Ohio has indefinitely suspended his certificate to practice osteopathic medicine and surgery in Ohio and the New York State Commissioner of Health issued a Summary Order which prohibits the Respondent from practicing medicine in New York.

Given the facts of this case, the Hearing Committee determines that the interests of the people of the State of New York will be best served by suspending the Respondent's license until such time as he makes a showing to the satisfaction of a committee of professional medical conduct of the State Board for Professional Medical Conduct that he is not incapacitated for the active practice of medicine provided, however, that the committee may impose reasonable conditions on the licensee, if it determined that due to the nature and extent of the licensee's former incapacity such conditions are necessary to protect the health of the people.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in New York State is hereby **SUSPENDED** until such time as he makes a showing to the satisfaction of a committee of professional medical conduct of the State Board for Professional Medical Conduct that he is not incapacitated for the active practice of medicine provided, however, that the committee may impose reasonable conditions on the licensee, if it determined that due to the nature and extent of the licensee's former incapacity such conditions are necessary to protect the health of the people.

2. This **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or certified or registered mail.

DATED: New York, New York
12-22, 2000


JERRY WAISMAN, M.D., Chairperson

**WALTER T. GILSDORF, M.D.
MR. IRVING S. CAPLAN**

APPENDIX I

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

IN THE MATTER
OF
YOURA TYMOCHKO, D.O.

COMMISSIONER'S
SUMMARY
ORDER

TO: YOURA TYMOCHKO, D.O.
268 Stahl Avenue
Cortland, OH 44410-1138

The undersigned, Antonia C. Novello, M.D., M.P.H., Commissioner of Health, pursuant to N.Y. Public Health Law §230 (McKinney 1990 and Supp. 1999), upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction (Ohio) has made a finding substantially equivalent to a finding that the practice of medicine by YOURA TYMOCHKO (the Respondent) in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the certified documents of the State Medical Board of the State of Ohio, attached hereto as Appendix "A" and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b) (McKinney 1990 and Supp. 1999), that effective immediately, Respondent shall not practice medicine in the State of New York.

Any practice of medicine in the State of New York in violation of this (Commissioner's) Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical

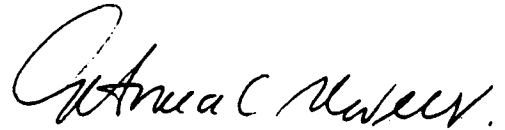
practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the State of Ohio. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1999), and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1999). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Summary Hearing to be provided to the Respondent after the final conclusion of the Ohio proceeding. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299 via Certified Mail, Return Receipt Requested, of the final conclusion of the Ohio proceeding immediately upon such conclusion.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a (McKinney Supp. 1999). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
October 7, 1999



Antonia C. Novello, M.D., M.P.H.
Commissioner
New York State Health Department

Inquiries should be directed to:

Roy Nemerson
Deputy Counsel
N.Y.S. Department of Health
Division of Legal Affairs
5 Penn Plaza
Suite 601
New York, New York 10001
(212) - 613-2615

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

IN THE MATTER
OF
YOURA TYMOCHKO, D.O.

NOTICE
OF
SUMMARY
REFERRAL
HEARING

TO: YOURA TYMOCHKO, D.O.
268 Stahl Avenue
Cortland, OH 44410

YOURA TYMOCHKO, D.O.
1336 Palmyra Rd. SW
Warren, OH 44485

PLEASE TAKE NOTICE THAT:

Pursuant to a Commissioner's Summary Order dated October 7, 1999, an adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 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 15th day of November, 2000, 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 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.

EXHIBIT

1

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, 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 November 6, 2000.

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 November 6, 2000, 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 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 the State 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

Oct. 17, 2000



PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180
(518) 402-0820

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

IN THE MATTER
OF
YOURA TYMOCHKO, D.O.

STATEMENT
OF
CHARGES

YOURA TYMOCHKO, D.O., the Respondent, was authorized to practice medicine in New York state on September 10, 1973, by the issuance of license number 118077 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 14, 1999, the State Medical Board of Ohio (hereinafter "Ohio Board"), by an Entry of Order (hereinafter "Ohio Order I"), summarily suspended Respondent's certificate to practice osteopathic medicine or surgery, based upon a determination that Respondent's "continued practice presents a danger of immediate and serious harm to the public."

B. On or about September 13, 2000, the Ohio Board, by an Entry of Order (hereinafter "Ohio Order II"), indefinitely SUSPENDED Respondent's certificate to practice osteopathic medicine and surgery, based upon Respondent's inability to practice medicine according to acceptable and prevailing standards of care by reason of mental illness and his having committed an act that constitutes a felony.

C. The conduct resulting in the Ohio Board's disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(7) (practicing the profession while impaired by mental disability);
2. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules or regulations); and/or
3. New York Education Law §6530(20) (moral unfitness).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) 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 New York state, in that Petitioner charges:


1. The facts in paragraph A, B, and/or C.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(d) by reason of having his license to practice medicine suspended or having had other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in paragraphs A, B, and/or C.

DATED: *Oct 17*, 2000
Albany, New York.


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