

**DOH 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*

June 25, 1997

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

David W. Smith, Esq.  
NYS Department of Health  
5 Penn Plaza - Sixth Floor  
New York, New York 10001

Eric Stanley Waugh, M.D.  
c/o Waugh  
16204 Ohio Street  
Detroit, Michigan 48221

**RE: In the Matter of Eric Stanley Waugh, M.D.**

Dear Mr. Smith and Dr. Waugh:

Enclosed please find the Determination and Order (No. 97-157) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

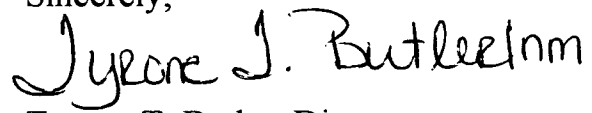
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in black ink that reads "Tyrone T. Butler nm". The signature is written in a cursive style with a large initial 'T' and 'B'. The letters 'nm' are written in a smaller, simpler font at the end of the signature.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

COPY

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

-----X  
IN THE MATTER : DETERMINATION  
OF : AND  
ERIC STANLEY WAUGH, M.D. : ORDER  
-----X

BPMC-97-157

A Notice of Referral Proceeding and Statement of Charges, both dated April 1, 1997, were served upon the Respondent, Eric Stanley Waugh, M.D. **IRWIN J. COHEN, M.D. (Chair), TIMOTHY C. TRUSCOTT, and GERALD WEINBERGER, 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. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by David W. Smith, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on June 10, 1997. 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

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 §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 §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.

### 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. Eric Stanley Waugh, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on

September 16, 1984 by the issuance of license number 160204 by the New York State Education Department. (Pet. Ex. #4).

2. On or about July 8, 1996, the State of Florida, Agency for Health Care Administration (hereinafter AHCA), issued an emergency suspension of Respondent's license to practice medicine in the state of Florida, having found that he constituted an immediate and serious danger to the health, safety and welfare of the public because of alcohol, drugs or psychiatric condition in violation of §458.331(1)(s) of Florida Statutes. (Pet. Ex. #5).

3. Thereafter, on or about August 30, 1996, AHCA entered into a consent agreement with Respondent whereby he admitted that he was unable to practice medicine with reasonable skill and safety because of illness, alcohol, drugs or a physical or mental impairment in violation of §458.331(1)(s) of Florida Statutes. AHCA indefinitely suspended Respondent's license to practice and ordered him to participate and undergo treatment in the Physician's Recovery Network. The AHCA further ordered that upon Respondent's demonstration to the Board that he is able to practice medicine with skill and safety to patients, his license shall be reinstated and placed on an indefinite period of probation under certain terms and conditions. (Pet. Ex. #5).

#### 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 concluded that the Department has sustained its burden of proof in this matter. The preponderance of the evidence demonstrates that Respondent was disciplined by AHCA, the duly authorized professional disciplinary agency for the state of Florida. Moreover, Respondent's conduct, as admitted in the consent agreement and set forth in the attached Administrative Complaint (Petitioner's Exhibit #5), clearly demonstrates that Respondent is either an habitual abuser of alcohol or drugs, or is suffering from a psychiatric condition which impairs the ability to practice medicine. This would, if committed in New York State, constitute professional misconduct in violation of Educ. Law §6530(8). As a result, the Hearing Committee voted to sustain the Specification of professional misconduct.

#### 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 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 evidence clearly established that Respondent is impaired for the practice of medicine. He failed to undergo treatment through the Florida Physician Recovery Network, as

ordered by the AHCA, and departed the state. Under the circumstances, revocation is the only sanction which will serve to protect the people of this state from future harm by this licensee.

Respondent may petition the Board of Regents for reinstatement of his license after one year. In the event that he so chooses, he will have the opportunity to demonstrate that he is no longer impaired and is compliant with an appropriate treatment regimen.



ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

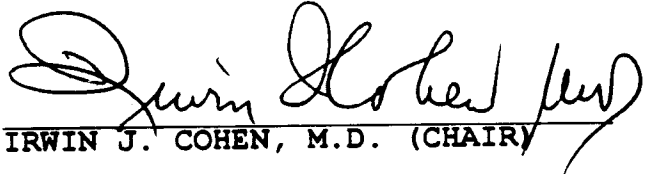
1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is SUSTAINED;

2. Respondent's license to practice medicine in New York State be and hereby is REVOKED;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Troy, New York

June 23, 1997

  
IRWIN J. COHEN, M.D. (CHAIR)

TIMOTHY C. TRUSCOTT  
GERALD WEINBERGER, M.D.

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

Eric Stanley Waugh, M.D.  
c/o Waugh  
16204 Ohio Street  
Detroit, Michigan 48221

APPENDIX I

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

IN THE MATTER  
OF  
ERIC STANLEY WAUGH, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: ERIC STANLEY WAUGH, M.D.  
9417 Old A1A  
St. Augustine, Florida 32086

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1997) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1997). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on June 10, 1997, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of 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 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 written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 (McKinney Supp. 1997) and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be

photocopied.

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: New York, New York  
April, / 1997



ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

David W. Smith, Esq.  
Associate Counsel  
NYS Department of Health  
Division of Legal Affairs  
5 Penn Plaza, Suite 601  
New York, New York 10001  
(212) 613-2617

IN THE MATTER  
OF  
ERIC STANLEY WAUGH, M.D.

STATEMENT  
OF  
CHARGES

ERIC STANLEY WAUGH, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 16, 1984, by the issuance of license number 160204 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about July 8, 1996, the State of Florida, Agency for Health Care Administration (AHCA), issued an emergency suspension of Respondent's license to practice medicine in the State of Florida having found that he constituted an immediate and serious danger to the health, safety and welfare of the public because of alcohol, drugs or psychiatric condition in violation of §458.331(1)(s) of Florida Statutes.
1. Thereafter, on or about August 30, AHCA entered into a consent agreement with Respondent whereby Respondent admitted that he was unable to practice medicine with reasonable skill and safety because of illness, alcohol, drugs or a physical or mental impairment in violation of §458.331(1)(s) Florida Statutes.



2. AHCA suspended indefinitely Respondent's license to practice, ordered him to participate and undergo treatment in the Physicians Recovery Network and, if his license should be reinstated after a showing that he can again practice with skill and safety, placed him on indefinite probation.

**SPECIFICATION OF CHARGES**

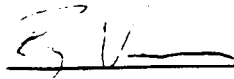
**FIRST SPECIFICATION**

**HAVING LICENSE SUSPENDED**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1997) by having had his license suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state where the conduct resulting in the suspension would, if committed in New York State constitute professional misconduct under the law of New York State (namely NYS Educ. Law §6530(8) -being a habitual abuser of alcohol or drugs, or having a psychiatric condition which impairs the ability to practice), as alleged in the facts of the following:

1. Paragraphs A and A1-2.

DATED: April / , 1997  
New York, New York



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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct