



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

September 12, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Thaddeus S. Wojcik, M.D.
1513 Four Mile Road
Allegany, New York 14706

Daniel A. DeRose, Esq.
Kehoe & DeRose, Esqs.
P.O. Box 548
419 Community Bank Bldg.
Olean, New York 14760-0548

Jean Bresler, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

RE: In the Matter of Thaddeus S. Wojcik, M.D.

Dear Dr. Wojcik, Mr. DeRose and Ms. Bresler :

Enclosed please find the Determination and Order (No. 94-183) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

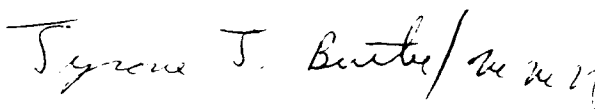
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in cursive script that reads "Tyrone T. Butler / mm 17".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mmn

Enclosure

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

**IN THE MATTER
OF
THADDEUS S. WOJCIK, M.D.**

**DETERMINATION
AND
ORDER**

NO. BPMC-94-183

A Notice of Hearing and Statement of Charges, both dated March 29, 1994, were served upon the Respondent, Thaddeus S. Wojcik, M.D. **ROBIN N. BUSKEY, R.P.A.**, (Chair), **NORTON SPRITZ, M.D.**, and **HOWARD SIMON, 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.

CHRISTINE C. TRASKOS, ESQ., Administrative Law Judge, served as the Administrative Officer. A hearing was held on June 22, 1994. The Department of Health appeared by **JEAN BRESLER, Esq.**, Associate Counsel. The Respondent appeared by **KEHOE & DeROSE, ESQS.**, **DANIEL A. DeROSE, Esq.** of counsel. 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 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) (a) (i). 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. Respondent was authorized to practice medicine in New York State on August 29, 1983 by the issuance of license number 155651 by the New York State Education Department. (Pet. Ex.4)

2. On July 9, 1992, in the Justice Court in the Town of Coldspring, Respondent pled guilty to resisting arrest, a misdemeanor in violation of New York Penal Law Section 205.30 and also to operating a motor vehicle while under the influence of alcohol, a violation of Section 1192 (1) of the Vehicle and Traffic Law. (Pet. Ex. 3)

3. Pursuant to the above, Respondent was fined \$100 and his driver's license was suspended for 90 days. (Pet. Ex. 3)

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 unanimously concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent pled guilty to resisting arrest in violation of Section 205.30 of the New York Penal Code. Section 6530 (9) (a) (i) of the Education Law defines professional misconduct as "being convicted of committing an act constituting a crime under New York state law." As a result, 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 license to practice medicine in New York State should be suspended for 2 years from the effective date of this Determination and Order. The suspension shall be stayed in its entirety and Respondent shall be placed on probation. The complete terms of probation are attached to this Determination and Order in Appendix II. 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.

At the hearing Respondent offered an affidavit from T.F. Tessena , M.S. a certified Addiction Counselor. (Resp. Ex. C) The affidavit states in part: "An assessment of Dr. Wojcik was completed with a resultant diagnosis of alcohol abuse, mild. This is a residual category of diagnosis for noting some maladaptive patterns of use that do not meet the criteria for dependence for that particular substance, in this case, alcohol." Mr. Tessina found no dependence on the part of Respondent and concluded that stress and use of alcohol had markedly declined after Respondent had dissolved his troubled marital relationship. Respondent also offered a letter with a verification from Robert A. Catalano, M.D. Medical Director of Olean General Hospital where Respondent has had hospital privileges since 1984. (Resp. Ex.B) Dr. Catalano's letter states that during Respondent's stay at Olean General Hospital, "there have

not been any incidents or circumstances for which Dr. Wojcik's delivery of medical services has been questioned or challenged in any way, by alcohol or otherwise." He further mentions an incident in February of 1992, whereby a nurse had reported smelling alcohol on Respondent's breath. Dr. Catalano's investigation revealed however, that Respondent had not been on call, but had seen a patient on an emergency basis after having a social drink and was in no way impaired. At the hearing, Respondent testified that the resisting arrest incident and the underlying DWI were a direct result of the marital stress he incurred prior to the dissolution of his marriage. (T. 29, 35)

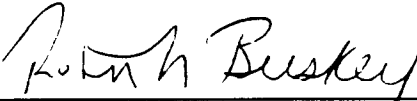
Notwithstanding Respondent's explanation , the Hearing Committee has a genuine concern for Respondent's current status with respect to his use of alcohol. Respondent acknowledged that he was not screened for alcohol abuse during the course of his counselling. (T. 38) The affidavit of Respondent's therapist, Mr. Tessina, does not resolve the question of whether alcohol abuse or misuse is still a factor in Respondent's life. Respondent testified that it was his decision to end the counselling sessions after he agreed to separate from his wife. (T.40) The Hearing Committee is not convinced however, that Respondent's marital separation put an end to his abuse or misuse of alcohol. More importantly, in response to the Hearing Committee's questions concerning a physician's responsibility with respect to drinking "while on call" the Committee found Respondent's answers to be glib and lacking insight about the seriousness of the situation. These factors coupled with Respondent's conviction of a crime of violence warrant the need for an expert and objective opinion to resolve the Hearing Committee's concerns. The Hearing Committee believes that it is acting in the best interest of not only the public , but Respondent as well. Under the totality of the circumstances, a two year stayed suspension requiring further evaluation and probation are the appropriate sanctions in this instance.

ORDER

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

1. The Specification of professional misconduct contained within 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 **SUSPENDED** for a period of two years from the effective date of this Determination and Order. The suspension shall be stayed, and Respondent shall be placed on probation in accordance with the terms of probation contained in Appendix II which is attached to this Determination and Order and incorporated herein.

Dated: Albany, New York
Sept 6, 1994



ROBIN N. BUSKEY, R.P.A.
(Chair)
NORTON SPRITZ, M.D.
HOWARD SIMON, M.D.

TO: Jean Bresler, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Daniel A. DeRose, Esq.
Kehoe & DeRose, Esqs.
P.O. Box 548
419 Community Bank Bldg.
Olean, NY 14760-0548

Thaddeus S. Wojcik, M.D.
1513 Four Mile Road
Allegany, NY 14706

APPENDIX I

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Petitioner's /
For Identification
6-22-94 (B)
IN EVIDENCE

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: THADDEUS S. WOJCIK, M.D. : PROCEEDING
: :
-----X

TO: THADDEUS R. WOJCIK, M.D.
Box 232
1509 Four Mile Road
Allegany, NY 14706-0232

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 11th day of May, 1994 at 1:00 o'clock in the afternoon of that day at 5 Penn Plaza, 6th 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, 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 May 1, 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 May 1, 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 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
5/24 , 1994



CHRIS STERN HYMAN
COUNSEL
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Jean Bresler
Associate Counsel
(212) 613-2601

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

-----X
IN THE MATTER : STATEMENT
OF : OF
THADDEUS R. WOJCIK, M.D. : CHARGES
-----X

THADDEUS R. WOJCIK, M.D., the Respondent, was authorized to practice medicine in New York State on August 29, 1983 by the issuance of license number 155651 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 at Box 232, 1509 Four Mile Road, Allegany, NY 14706-0232.

FIRST SPECIFICATION

- A. The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530 (9)(a)(i) (McKinney Supp. 1994) in that he has been found guilty of committing an act constituting a crime under New York State Law.

On or about July 9, 1992 a judgement of conviction was entered based upon Respondent's guilty plea to the crime of resisting arrest, New York Penal Law Section 205.30, and

operating a motor vehicle while under the influence of alcohol, vehicle and traffic law section 1192(1).

Resisting arrest is a Class A misdemeanor. Respondent received a fine of \$100.00 plus a \$90.00 surcharge, and his drivers license was suspended for 90 days.

DATED: New York, New York

March 29, 1994



CHRIS STERN HYMAN
COUNSEL

Bureau of Professional Medical
Conduct

APPENDIX II

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APPENDIX II
TERMS OF PROBATION

1. Dr. Wojcik shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.

2. Dr. Wojcik shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.

3. Dr. Wojcik shall submit prompt written notification to the Board addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237, regarding any change in employment, practice, residence or telephone number, within or without New York State.

4. In the event that Dr. Wojcik leaves New York to reside or practice outside the State, Dr. Wojcik shall notify the Director of the Office of Professional Medical Conduct in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.

5. Dr. Wojcik's probation shall be supervised by the Office of Professional Medical Conduct.

6. Dr. Wojcik shall enter a licensed Alcoholic Pre-Treatment Program which has been approved by the Office of Professional Medical Conduct for an independent evaluation for alcohol abuse or impairment.

7. The results of the aforementioned evaluation shall be forwarded to the Office of Professional Medical Conduct.

8. The Office of Professional Medical Conduct shall refer Dr. Wojcik to a designated rehabilitation program, if the results of the aforementioned evaluation indicate that Dr. Wojcik is a candidate for such rehabilitation, and he shall satisfactorily complete same.

9. Dr. Wojcik shall submit quarterly declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the Office of Professional Medical Conduct at the address indicated above.

10. Dr. Wojcik shall submit written proof to the Director of the Office of Professional Medical Conduct at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine with the New York State Education Department. If Dr. Wojcik elects not to practice medicine in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

11. If there is full compliance with every term set forth herein, Dr. Wojcik may practice as a physician in New York State in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance or any other violation of the terms of probation, a violation of probation proceeding and/or such other proceedings as may be warranted, may be initiated against Dr. Wojcik pursuant to New York Public Health Law Section 230(19) or any other applicable laws.