



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 23, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kevin P. Donovan, Esq.
Associate Counsel
NYS Department of Health
Corning Tower - Room 2429
Albany, New York 12237

Salih Zamzam, M.D.
Route #2, Box 5
Grundy, Virginia 24614

RE: In the Matter of Salih Zamzam, M.D.

Dear Mr. Donovan and Dr. Zamzam :

Enclosed please find the Determination and Order (No. 94-197) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

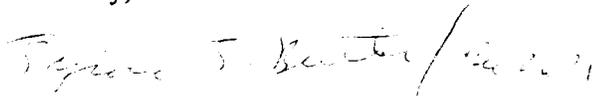
The notice of review served on the Administrative Review Board should be forwarded to:

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:mmn

Enclosure

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

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IN THE MATTER : DETERMINATION
OF : AND
SALIH ZAMZAM, M.D. : ORDER
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NO. BPMC-94-197

A Notice of Hearing and Statement of Charges, both dated July 15, 1994, were served upon the Respondent, Salih Zamzam, M.D. **THERESE G. LYNCH, M.D. (Chair), SISTER MARY THERESA MURPHY,** and **MOHAMMAD GHAZI-MOGHADAM, 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 Kevin P. Donovan, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on September 13, 1994. 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. Salih Zamzam, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on August 1,

1972 by the issuance of license number 113897 by the New York State Education Department. Respondent is not currently registered to practice medicine in New York State. (Pet. Ex. #2).

2. By a Consent Order entered on October 18, 1993, Respondent was placed on indefinite probation by the Virginia Board of Medicine (hereinafter "Virginia Board"), requiring, among other conditions, that Respondent have a female chaperon present at all times when examining or treating a female patient. The Consent Order also restricted Respondent's ability to prescribe, administer or dispense any scheduled controlled substances, and required completion of continuing medical education concerning the prescription of controlled substances. (Pet. Ex. #3).

3. The conduct resulting in the Virginia disciplinary action involved Respondent's failure to appropriately examine, evaluate and manage two patients, his engaging in sexually inappropriate behavior with three patients under the guise of medical examinations, and his prescription of controlled substances without therapeutic purpose to a patient who subsequently died of drug poisoning due to the prescribed substances. (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 Committee concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent was disciplined by the Virginia Board through the issuance of a Consent Order. The Committee further concluded that Respondent's conduct, as set forth in the Virginia Board's Findings of Fact, would, if committed in New York State, constitute professional misconduct under the laws of New York State. More specifically, Respondent's conduct would constitute professional misconduct in violation of New York Education Law §6530(2) [practicing the profession fraudulently]; §6530(3) [negligence on more than one occasion]; §6530(4) [gross negligence]; §6530(5) [incompetence on more than one occasion]; §6530(6) [gross incompetence], and §6530(20) [moral unfitness].

Based upon the foregoing, the Hearing Committee unanimously voted to sustain the Specification of professional misconduct contained in 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 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 record of the Virginia disciplinary action

indicates that Respondent repeatedly engaged in sexually inappropriate behavior with female patients, and failed to order or perform medically appropriate physical examinations or diagnostic tests. Further, Respondent improperly prescribed Methadone tablets and dispensed PACAPS (Butalbital 50 mg., Caffeine 40 mg. and Acetaminophen 325 mg.) to a patient known by Respondent to be addicted to various controlled substances. The patient ultimately died of multiple drug poisoning due to the combination of Butalbital and Methadone.

Respondent failed to appear at the hearing and present any testimony on his behalf. The written materials submitted by Respondent were considered by the Hearing Committee and found to be of little evidentiary value. Given the serious nature of Respondent's misconduct, and the absence of any mitigating information, the Hearing Committee unanimously determined that revocation was the only appropriate sanction.

APPENDIX I

9/13/94 / REC'd
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STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER : NOTICE OF
OF : REFERRAL
SALIH ZAMZAM, M.D. : PROCEEDING

-----X

TO: SALIH ZAMZAM, M.D.
Route #2, Box 5
Grundy, Virginia 24614

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 13th day of September, 1994 at 10:00 in the forenoon of that day at The Cultural Education Building, Room E, 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 6, 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 6, 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
July 15, 1994

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

Inquiries should be addressed to:

KEVIN P.DONOVAN
Associate 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

-----X

IN THE MATTER : STATEMENT
OF : OF
SALIH ZAMZAM, M.D. : CHARGES

-----X

SALIH ZAMZAM, M.D., the Respondent, was authorized to practice medicine in New York State on August 1, 1972, by the issuance of license number 113897 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine in New York State. Respondent's last known address is Route #2, Box 5, Grundy, Virginia 24614.

FACTUAL ALLEGATIONS

A. By Consent Order entered October 18, 1993, Respondent was placed on indefinite probation by the Virginia Board of Medicine requiring, among other conditions, that he have a female chaperon present at all times when examining or treating a female patient, restricting his ability to prescribe, administer or dispense any scheduled controlled substances, and requiring completion of continuing medical education concerning prescribing; the conduct resulting in this discipline was Respondent's failure to appropriately examine, evaluate and manage two patients, his engaging in sexually inappropriate behavior with three patients under the guise of medical

examination, and his prescribing controlled substances without therapeutic purpose to a patient who subsequently died of drug poisoning due to the prescribed substances.

B. The conduct in Virginia upon which the disciplinary action was based would, if committed in New York State, constitute misconduct under the laws of New York State, namely: practicing the profession fraudulently within the meaning of New York Education Law §6530(2) (McKinney Supp. 1994); practicing the profession with negligence on more than one occasion within the meaning of New York Education Law §6530(3) (McKinney Supp. 1994); practicing the profession with gross negligence on a particular occasion within the meaning of New York Education Law §6530(4) (McKinney Supp. 1994); practicing the profession with incompetence on more than one occasion within the meaning of New York Education Law §6530(5) (McKinney Supp. 1994); practicing the profession with gross incompetence within the meaning of New York Education Law §6530(6) (McKinney Supp. 1994); conduct in the practice of medicine which evidences moral unfitness to practice medicine within the meaning of New York Education Law §6530(20) (McKinney Supp. 1994).

SPECIFICATION OF CHARGES

DISCIPLINARY ACTION TAKEN BY ANOTHER STATE

The Respondent is charged with professional misconduct within the meaning of New York Education Law §6530(9) (d) (McKinney Supp. 1994), in that he had disciplinary action taken against his license by a duly authorized disciplinary agency of another

state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, and that Petitioner charges:

1. The facts of paragraphs A and B.

DATED: *July 15*, 1994
Albany, New York


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