



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

October 5, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Carolyn Shearer, Esq.
121 State Street
Albany, New York 12207

Thomas A. Ranieri, M.D.
1205 Philo Street
Scranton, Pennsylvania 18508

RE: In the Matter of Thomas A. Ranieri, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 01-227) 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.

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.

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:cah
Enclosure

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

IN THE MATTER
OF
THOMAS A. RANIERI, M.D.

DETERMINATION
AND
ORDER

BPMC #01-227

COPY

A Notice of Referral Proceeding and Statement of Charges, both dated May 14, 2001, were served upon the Respondent, **THOMAS A. RANIERI, M.D.**. **RAVINDER MAMTANI, M.D.**, Chairperson, **THAKOR C. RANA, M.D.** and **MS. NANCY J. MACINTYRE, R.N., Ph.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. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on September 19, 2001, 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 **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent Appeared by **CAROLYN SHEARER, ESQ.**

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 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, the Respondent is charged with professional misconduct pursuant to Education Law Sections 6530(9)(b) and (d), based upon actions constituting violations of subdivisions (7), (8) and (16). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:

NONE

For the Respondent:

RESPONDENT

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex.". These citations refer to 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. **THOMAS A. RANIERI, M.D.**, the Respondent, was authorized to practice medicine in New York State on April 2, 1984, by the issuance of license number 157792 by the New York State Education Department (Ex. 4).
2. On or after October 25, 2000, the Commonwealth of Pennsylvania, Department of State, State Board of Medicine (hereinafter "Pennsylvania Board"), by a Consent Agreement and Order (hereinafter "Pennsylvania Order"), indefinitely suspended Respondent's license for no less than three (3) years and stayed the suspension in favor of no less than three (3) years probation with terms and conditions, based upon Respondent's chemical abuse or dependency (Ex. 5).

HEARING COMMITTEE CONCLUSIONS

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

- New York Education Law §6530(7); and
- New York Education Law §6530(8);

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by 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: NOT SUSTAINED (3-0)

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional 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 New York state.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that on or after October 25, 2000, the Pennsylvania Board, by issuance of the Pennsylvania Order, indefinitely suspended Respondent's license for no less than three years and stayed the suspension in favor of no less than three years probation with terms and conditions, based upon Respondent's chemical abuse or dependency.

The Hearing Committee determines that the evidence establishes that Respondent practiced medicine while impaired by drugs (narcotic analgesics and/or anabolic steroids) and that he was a habitual user or dependent upon these drugs. Respondent's misuse of these drugs led to the initiation of the action which culminated in the issuance of the Pennsylvania Order suspending his Pennsylvania license for at least three years (the suspension was stayed) and placing him on probation for at least three years.

Respondent's misuse of drugs would have constituted Professional Misconduct under New York Education Law §6530(7) and (8), had it occurred in New York State. There was no showing, however, that it would have constituted misconduct under subdivision (16), which covers "...willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine". Nothing in the Pennsylvania Order, the other documentary evidence presented at the hearing, or the Department's presentation at the hearing indicates what provisions of state, federal or local laws, rules or regulations Respondent allegedly violated that might form the basis for a finding of misconduct under this section. Accordingly, this allegation is not upheld.

Inasmuch as Respondent's license was suspended and other disciplinary action taken after disciplinary action was instituted by another state, Respondent has committed

misconduct under New York Education Law §6530(9)(d). However, there was no showing that Respondent was found guilty of improper professional practice or professional misconduct by the Pennsylvania Board. Therefore, the issuance of the Pennsylvania Order does not constitute misconduct in New York State under New York Education Law §6530(9)(b), and this specification is not upheld.

Since Specification 2 of the Statement of Charges was substantiated at the hearing, for the most part, the issue remaining to be decided is the appropriate penalty to be imposed in New York State as a result of Respondent's professional misconduct. The hearing committee, after careful consideration of all the evidence presented at the hearing, concludes that a suitable period of probation with conditions, detailed below in the Order incorporated into this decision, is the appropriate penalty. The factors weighing against the imposition of a more stringent penalty are set forth in the following paragraphs.

Of primary importance is the fact that Respondent has undertaken an extensive regimen of monitoring and treatment with regard to his condition, the details of which are set forth below;

- In early February, 2000, Respondent voluntarily joined the Physician's Recovery Network in Deerfield Beach, Florida. While in this program, he initiated a "...strong program of recovery... (Ex. C).
- In June, 2000, Respondent contacted and became a client of the Physicians' Health Programs (PHP) of the Foundation of the Pennsylvania Medical Society. He has a monitoring agreement with PHP that runs until June 27, 2005. The agreement includes random toxicology screens, therapy, attendance at 12-step meetings and consistent contact with PHP staff. Respondent has been compliant with his agreement and is in good standing (Ex. A);
- As part of his PHP agreement, Respondent entered the Marworth Center in Waverly, Pennsylvania, where he received an inpatient evaluation and treatment from July 10, 2000 to August 30, 2000 (Ex.A);
- On September 1, 2000, Respondent entered Boca House, a halfway house in Boca Raton, Florida, where he remained in treatment until May 21, 2001. Respondent

successfully completed his program, and the facility manager has stated that Respondent's prognosis is "...excellent as long as he continues to go to [12-step] meetings and work with a sponsor...(Ex. B);

- On or after October 25, 2000, Respondent entered into the Pennsylvania consent decree, which contains extensive probationary and monitoring conditions, including oversight of Respondent's case by the Pennsylvania Bureau of Professional and Occupational Affairs, Professional Health Monitoring Program, Voluntary Recovery Program ("VRP). The Pennsylvania Order remains in effect even if Respondent relocates from Pennsylvania to another state, although he must enroll in the latter state's impaired physician program (Ex. 5).
- On November 14, 2000, Respondent commenced participation with the New York State Medical Society's Committee for Physicians' Health (CPH), the New York equivalent of the Pennsylvania PHP. CPH receives quarterly reports from PHP regarding Respondent's participation and compliance with its program (Ex. D).

Additional factors weighing against imposition of a more stringent penalty against Respondent are that no known patient harm resulted from Respondent's misuse of drugs, that Respondent himself brought the Pennsylvania Order to the attention of the New York State Education Department (Ex. 5 was provided to The New York State Office of Professional Medical Conduct ("OPMC") by the Education Department), and that Respondent expresses full commitment to permanent elimination of his drug problem.

The Hearing Committee was impressed with Respondent's candid recitation of his problems and recovery efforts and is convinced that, with appropriate monitoring and support, he can safely return to the practice of medicine without endangering the health and safety of patients he may be called upon to treat in New York. Accordingly, the Hearing Committee concludes, as noted above, that an appropriate probationary period, detailed in the Order, below, should be imposed.

ORDER

IT IS HEREBY ORDERED THAT:

1. If, at some future date, the Respondent chooses to assume or resume practice in New York, he must notify the New York State Education Department and, if necessary, have his medical license reactivated (he is currently registered through February, 2003), and provide that agency with all requested information and documentation. In the event Respondent's New York medical license needs to be reactivated, Respondent must also provide OPMC with verification of the reactivation of his license prior to resuming practice in New York State.
2. Respondent must provide thirty (30) days prior written notice concerning his intention to assume practice in New York State to the New York State Office of Professional Medical Conduct ("O.P.M.C"). This notice should be sent by registered or certified mail, return receipt requested, to the Board, addressed to the Director, Office of Professional Medical Conduct, Hedley Park Place, 433 River Street - Fourth Floor, Troy, New York 12180-2299. Said notice is to include a full description of any employment and practice since the date of this hearing, as well as a listing of professional and residential addresses and telephone numbers within or without New York State. The notification must also list any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility since the date of this hearing.
3. As long as Respondent's PHP monitoring agreement is in place, Respondent shall fully comply with his agreement with that agency.

4. Respondent must fully comply with all provisions of the Pennsylvania Order, unless he is excused from doing so by the Pennsylvania Board or VRP.
5. OPMC will monitor Respondent's completion of a two-year probationary period, to commence upon the resumption of lawful medical practice in New York State, and to be monitored by OPMC.
6. The terms of Respondent's probation are as follows:
 - Respondent shall have at least quarterly meetings with a monitoring physician who shall review his practice. This monitoring physician shall, at a minimum, review randomly selected medical records and evaluate whether Respondent's practice comports with generally accepted standards of medical practice. This monitoring physician shall be selected by Respondent and is subject to the approval of the Director of the Office of Professional Medical Conduct. Respondent may practice not practice medicine in New York until the nominated monitoring physician is approved by the Director and the monitoring is in place.
 - During the period of probation set forth above, Respondent shall remain alcohol and drug free, except for drugs prescribed for Respondent by another physician for legitimate medical purposes.
 - Respondent shall maintain involvement with CPH, and follow the recommendations of CPH with regard to his recovery from substance addiction, for such portion of his probationary period as deemed necessary by CPH.
 - During the period of probation, Respondent shall obtain sobriety monitoring, detailed more fully below. The monitor shall be a health care professional or agency proposed by Respondent and subject to the written approval of OPMC or its designee. Respondent shall be responsible for arranging for the monitor, and for ensuring that the monitoring meets the requirements of this order. OPMC shall ensure that the monitor is familiar with the provisions of this order. Respondent shall submit to OPMC or its designee the name of a proposed successor within seven days of learning that the approved sobriety monitor is no longer willing or able to serve.
 - The sobriety monitor shall direct Respondent to submit to random, supervised, unannounced tests of blood, breath and/or urine for the presence of drugs and/or alcohol, and shall report to OPMC or its designee within 24 hours if at any time such a test is refused by Respondent or is positive. Respondent shall report as soon as practicable to submit to drug and/or alcohol screening. Respondent shall be screened at a frequency in the discretion of the monitor, subject to the approval of OPMC or its designee.

- Respondent shall notify in writing any medical facility with whom he becomes affiliated or at which he practices during the effective period of this probation, of the contents of this order and terms of probation, and provide a copy of any such notification to OPMC.
- OPMC may, at its discretion, take any and all steps necessary to monitor Respondent's status, condition or professional performance. Respondent must cooperate in providing releases permitting unrestricted access to records and other information, to the extent permitted by law, from any employer, medical facility or institution with which he is affiliated or at which he practices; any treatment facility, treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of Respondent, or maintained by a rehabilitation program for impaired Respondents. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of his compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
- Respondent shall submit written descriptive notification to OPMC at the address listed above, of any changes in employment and practice, professional and residential addresses or telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility during the probationary period, within 30 days of each event;
- Respondent shall notify the Director of OPMC, in writing, if he ceases to be engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall again notify the Director prior to any change in that status. Respondent's probation shall be tolled while Respondent is not practicing in New York during such period and shall resume upon his return to practice in New York State.
- Respondent 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 and obligations imposed by law and by his profession.
- Respondent shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients.
- Respondent shall comply with all terms, conditions, and restrictions to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance.
- If there is full compliance with every term and condition set forth herein, Respondent may practice as a physician in New York State; provided, however, that on receipt of evidence of non-compliance or any other violation of the term(s) and condition(s) of probation, a violation of probation proceeding and/or such other proceeding as may be warranted, may be initiated against Respondent pursuant to New York Public Health Law Sections 230 or any other applicable laws.

- OPMC may, in its discretion, and upon request by Respondent, relieve him of any uncompleted term of his probation, or any individual provision(s) thereof, if it is satisfied that such relief would not be contrary to the best interests of New York State residents.

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

DATED: Hopewell Junction, New York

9/29/01, 2001

R M Mamtani, M.D.

RAVINDER MAMTANI, M.D.
Chairperson

THAKOR C. RANA, M.D.
MS. NANCY J. MACINTYRE, R.N., Ph.D.

APPENDIX 1

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

IN THE MATTER

OF

THOMAS A. RANIERI, M.D.
PM-01-01-0468-A

NOTICE OF
REFERRAL
PROCEEDING

TO: THOMAS A. RANIERI, M.D.
1205 Philo Street
Scranto, PA 18508

PLEASE TAKE NOTICE THAT:

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 18th day of June 2001, 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 attached Statement of Charges. 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 that 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, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON.

EXHIBIT



TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before June 8, 2001.

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 of 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 June 8, 2001, 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

May 14, 2001



PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
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
THOMAS A. RANIERI, M.D.
PM-01-01-0468-A

STATEMENT
OF
CHARGES

THOMAS A. RANIERI, M.D., the Respondent, was authorized to practice medicine in New York state on April 2, 1984, by the issuance of license number 157792 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 25, 2000, the Commonwealth of Pennsylvania, Department of State, State Board of Medicine (hereinafter "Pennsylvania Board"), by a Consent Agreement and Order (hereinafter "Pennsylvania Order"), indefinitely suspended Respondent's license for no less than three (3) years and stayed the suspension for no less than three (3) years probation with terms and conditions, based on chemical abuse or dependency.

B. The conduct resulting in the Pennsylvania 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 alcohol or drugs);
2. New York Education Law §6530(8) (being a habitual abuser of alcohol, or being dependent on or a habitual user of drugs); and/or
3. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules, or regulations governing the practice of medicine).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by 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 paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license suspended or having had other disciplinary action taken after a disciplinary action was instituted 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 New York state, in that Petitioner charges:

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

DATED: *May 14*, 2001
Albany, New York


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