



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

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

Dennis P. Whalen
Executive Deputy Commissioner

June 3, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Paul Henry Wand, M.D.
2125 Southeast 10th Avenue
Apartment 1001
Fort Lauderdale, Florida 33316

Paul Henry Wand, M.D.
4488 North University
Lauderhill, Florida 33351

RE: In the Matter of Paul Henry Wand, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 02-185) 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.

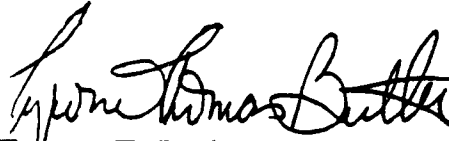
The notice of review served on the Administrative Review Board should be forwarded to:

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:cah
Enclosure

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

COPY

IN THE MATTER
OF
PAUL HENRY WAND, M.D.

DETERMINATION
AND
ORDER

BPMC #02-185

A hearing was held on May 22, 2002, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated March 28, 2002, were served upon the Respondent, **Paul Henry Wand, M.D.** **Ernst A. Kopp, M.D.**, Chairperson, **Sheldon Gaylin, M.D.**, and **Ms. Claudia Gabriel**, 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. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner 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 at the hearing, either in person or by counsel.

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 when 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 State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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 Notice of Referral Proceeding and the Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: None

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.

1. Paul Henry Wand, M.D., the Respondent, was authorized to practice medicine in New York State on October 30, 1981, by the issuance of license number 148528 by the New York State Education Department (Petitioner's Ex. 4).

2. On August 29, 2001, the Florida Board of Medicine ("Florida Board"), by a Final Order ("Florida Order"), assessed a \$30,000.00 administrative fine against the Respondent, required the Respondent to obtain evaluations from the Physician Recovery

Network and UF CARES, placed him on probation (the terms of which were to be determined after receipt of the evaluations by the Florida Board), required the Respondent to perform 500 hours of community service, and required that a female chaperone be present when the Respondent examines a female patient. The Florida Order found that the Respondent had failed to practice medicine within the acceptable standard of care, skill and treatment, exercised undue influence on a patient for the purpose of having a sexual relationship with the patient, and engaged in a sexual relationship with a patient. (Petitioner's Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to:

- New York Education Law Section 6530(17) – “Exercising undue influence on the patient...;” and
- New York Education Law Section 6530(20) - “Conduct in the practice of medicine which evidences moral unfitness to practice medicine;”

The Statement of Charges also alleged that the Florida Order contained findings of negligence on more than one occasion, which constitutes professional misconduct under New York Education Law Section 6530(3). The Florida Order, however, makes only one finding of negligence, a failure to consult an internist or an endocrinologist for a hospitalized patient (Petitioner's Ex. 5, Florida Order paragraph 49). The Florida Order specifically rejects all other negligence charges against the Respondent (Petitioner's Ex. 5, Florida Order paragraphs 50 and 51).

The Statement of Charges also contended that the Respondent's conduct, had it occurred in New York State, would have violated New York Education Law Section

6530(16) ("A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine;"). There is no indication in the Statement of Charges as to the statute, rule or regulation being referenced in this charge. The Hearing Committee, therefore, declines to affirm this charge.

The charge in the Statement of Charges regarding inadequate recordkeeping was withdrawn by the Petitioner during the hearing.

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 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: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having had disciplinary action taken 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 of New York state..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing. The Administrative Law Judge ruled that Petitioner's Exhibits 2 and 3 proved that service of notice of this hearing on the Respondent was legally sufficient and ruled that the hearing could proceed.

The Florida Order ruled not only that the Respondent had a sexual relationship with a patient, but that he exercised undue influence on her regarding the sexual relationship. The Respondent had prescribed medications for the patient that can impair judgment and cause confusion (Petitioner's Ex. 5, Florida Order paragraph 28). Nonetheless, he proceeded to initiate a sexual relationship with the patient (Petitioner's Ex. 5, Florida Order paragraph 29).

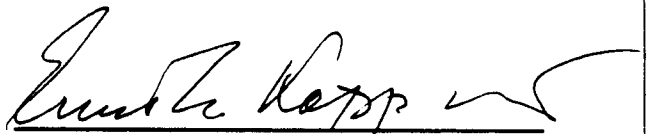
Because the Respondent did not appear at the hearing, there is no evidence in the hearing record of mitigating circumstances, rehabilitation or contrition. The Petitioner recommended revocation of the Respondent's license to practice medicine; the hearing record supports that recommendation.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine is revoked.
2. This Order shall be effective upon service on the Respondent by personal service or by certified or registered mail.

DATED: Loudonville, New York
May 29th, 2002



Ernst A. Kopp, M.D.
Chairperson

Sheldon Gaylin, M.D.
Claudia Gabriel

APPENDIX I

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

IN THE MATTER
OF
PAUL HENRY WAND, M.D.
CO-01-11-5598-A

NOTICE OF
REFERRAL
PROCEEDING

TO: PAUL HENRY WAND, M.D.
2125 Southeast 10th Avenue
Apartment 1001
Fort Lauderdale, FL 33316

PAUL HENRY WAND, M.D.
4488 North University
Lauderhill, FL 33351

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 22nd day of May 2002, 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. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before May 2, 2002.

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 May 2, 2002, 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

March 28, 2002



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) 402-0828

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

**PAUL HENRY WAND, M.D.
CO-01-11-5598-A**

STATEMENT

OF

CHARGES

PAUL HENRY WAND, M.D., the Respondent, was authorized to practice medicine in New York state on October 30, 1981, by the issuance of license number 148528 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 29, 2001, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), required Respondent to pay a \$30,000.00 administrative fine (\$10,000.00 per count), that he obtain a current evaluation from the Physician Recovery Network and evaluation from UF CARES and shall place him on probation following those evaluations, that he complete 100 hours community service each year for five (5) years, and that he have a licensed female chaperone present when examining any female patient, based on failing to practice medicine within the acceptable standard of care, skill, and treatment, failure to keep appropriate medical records to justify the course of treatment for the patient, and exercising influence within the patient-physician relationship for purposes of engaging a patient in sexual conduct, in that he entered into a sexual relationship with a patient.

B. The conduct resulting in the Florida Board 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(3) (negligence on more than one occasion);
2. New York Education Law §6530(16) (a willful or grossly negligent failure to comply with substantial provisions of federal, state or local rules governing the practice of medicine);

3. New York Education Law §6530(17) (exercising undue influence on the patient);
4. New York Education Law §6530(20) (moral unfitness); and/or
5. New York Education Law §6530(32) (inadequate recordkeeping).

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 had disciplinary action taken 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, in that Petitioner charges:

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

DATED: *March 28*, 2002
Albany, New York


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