



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

PUBLIC

September 29, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

John Michael Puskas, M.D.
193 Iron Mountain Boulevard
Lake Oswego, Oregon 97034

RE: In the Matter of John Michael Puskas, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-257) 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.

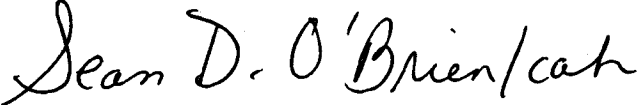
The notice of review served on the Administrative Review Board should be forwarded to:

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 that reads "Sean D. O'Brien/cab". The signature is written in a cursive style with a large initial 'S' and 'D'.

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:
Enclosure

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

COPY

**IN THE MATTER
OF
JOHN MICHAEL PUSKAS, M.D.**

DETERMINATION

AND

ORDER

BPMC #03-257

A Notice of Referral Proceeding and Statement of Charges, both dated July 25, 2003, were served upon the Respondent, **JOHN MICHAEL PUSKAS, M.D.** **STEVEN V. GRABIEC, M.D.**, Chairperson, **STEVEN PINSKY, M.D.** and **WILLIAM W. WALENCE, 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 17, 2003, 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 **PAUL ROBERT MAHER, ESQ.** and **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent, although duly notified of the hearing, did not appear, but did submit documentation for consideration by the Hearing Committee.

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 the same subdivisions, as well as subdivisions (8) (having a psychiatric condition that impairs the licensee's ability to practice) and (29) (violating a term of probation). 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: None

FINDINGS OF FACT

The following Findings of Fact (referred to below by the abbreviation "F.F.") 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. **JOHN MICHAEL PUSKAS, M.D.**, the Respondent, was authorized to practice medicine in New York State on June 19, 1974, by the issuance of license number 120273 by the New York State Education Department (Ex. 4).
2. On July 10, 1998, the Board of Medical Examiners, State of Oregon ("the Oregon Board"), issued an emergency suspension of Respondent's license in that state. The basis for the suspension was that Respondent had been engaging in manic and inappropriate behavior; that his privileges at a hospital had been suspended; that he had refused to undergo a psychiatric examination; that a psychiatric examination conducted pursuant to an order of the Board revealed evidence that Respondent is impaired and might have difficulty practicing competently; and that Respondent's continued practice constituted an immediate danger to the public. Respondent was informed that he was entitled to a hearing to address these issues (Ex. 5).
3. On February 19, 1999, Respondent entered into a stipulation with the Oregon Board in resolution of the matter (entitled "Corrective Action Order"), wherein he agreed that he would, among other things, establish and maintain a physician/patient relationship with a psychiatrist, who would report to the Board monthly for the first year and quarterly thereafter as to Respondent's ability to safely and competently practice medicine. The Order also provided that Respondent could petition the Board for amendment or termination of the conditions thereof after 12 months (Ex. 6).

4. On October 19, 2001, the Oregon Board issued a Final Order, wherein it revoked Respondent's license on the ground that he had violated the Corrective Action Order by ending his relationship with the approved psychiatrist after one year without the approval of the Board. The Board concluded that Respondent had a high level of hostility and intransigence with regard to his past treatments that cast serious doubt upon his future compliance with the Corrective Action Order or any future modifications thereto the Board might make (Ex. 7).
5. On April 21, 2003, the State of Washington Department of Health, Medical Quality Assurance Commission ("the Washington Board"), by issuance of a document entitled "Findings of Fact, Conclusions of Law, Final Order of Default" revoked Respondent's Washington medical license after he failed to respond to a Statement of Charges seeking action against his Washington license based upon the Oregon Board's revocation of his license in that state (Ex. 8). On June 11, 2003, the Washington Board issued an "Order Denying Request for Reconsideration", wherein it refused to reconsider the issuance of the Default Order on the ground that Respondent had not set forth any valid ground for reconsideration (Ex. 9).

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the conduct resulting in the Oregon and Washington Boards' disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to:

- New York Education Law §6530(8) (having a psychiatric condition which impairs the licensee's ability to practice);
- New York Education Law §6530(29) (violating a term of probation); and

- New York Education Law §6530(9)(d) (having the license to practice medicine revoked by the disciplinary entity of another state, where the underlying conduct would have constituted misconduct in New York State.

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

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: SUSTAINED

THIRD AND FOURTH SPECIFICATIONS

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 of New York state.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

Pursuant to New York Public Health Law §230(10)(p), at a hearing brought to review charges of misconduct under New York Education Law §6530(9) (convictions of crimes or administrative violations), once it is established that another state has taken action against

a physician based upon conduct that would have constituted misconduct had it occurred in New York State, the only issue that can be decided is the penalty to be imposed in New York State

The record in this case indicates, first of all, that Respondent's Oregon license was suspended summarily based upon evidence that he was psychiatrically impaired, and upon his failure to respond to such charges (F.F. #2). The issuance of the suspension constituted misconduct in New York State pursuant to New York Education Law §6530(9)(b) and (d) because the underlying circumstances would also constitute misconduct in New York State (Education Law §6530(8) - a licensee's having a psychiatric condition that impairs the his ability to practice).

The Hearing Committee also concludes that the issuance of the Oregon Corrective Action Order (F.F. #3) constitutes misconduct under York Education Law §6530(9)(b) and (d), because Respondent agreed that disciplinary action should be imposed by that state in response to the previous finding that he had psychiatric condition that impaired his ability to practice (which would have constituted misconduct in New York under Education Law §6530(8), had this condition manifested itself in New York State).

The issuance of the Final Order by the Oregon Board (F.F.#4) constitutes misconduct under York Education Law §6530(9)(b) and (d) because the underlying facts would also constitute misconduct in New York State (Education Law §6530(29)(violation of a term of probation) as well as subdivision (8) (psychiatric impairment)).

The issuance of the Washington Order (F.F. #5) constitutes misconduct under York Education Law §6530(9)(b) and (d) because the underlying facts would also constitute misconduct in New York State under these same subdivisions (having had administrative findings made against the licensee by another state).

Inasmuch as misconduct has been established, the only issue remaining to be decided is the appropriate penalty. Although Respondent did not appear at the hearing, he did submit a collection of documents for consideration (Ex.'s A & B). These documents were intended to convince the Hearing Committee that Respondent does not have a mental disorder that impairs his ability to practice, and that the actions taken against him by the states of Oregon and Washington were the result of a massive conspiracy against him and his non-traditional medical views. These arguments cannot be considered by this Hearing Committee, which is bound by the findings made by these other states (Public Health Law §230(10)(p)).

Furthermore, the Hearing Committee's impression is that these documents, rather than tending to establish the existence of reasons why Respondent's license should not be revoked (as recommended by the Department) tend if anything to lend support to the wisdom of the Oregon and Washington determinations. The documents, many of which are letters written by Respondent to various individuals, seem to paint the picture of a person with irrational and paranoid ideation, notions of personal grandiosity, excessive combativeness, and flights of seemingly disjointed ideas.

The Hearing Committee was left with the impressions that Respondent cannot admit that any person with whom he disagrees might be right, that Respondent will never undertake any course of action that does not mesh with his own personal belief system, that he is utterly unwilling to comply with the mandates of licensing authorities and that he has largely abandoned, and disputes the validity of, many of the tenets and principles of modern medical science. Respondent's unwillingness to attend the instant hearing to attempt to allay the Hearing Committee's concerns makes it very difficult for the Hearing

Committee to find in this record anything that mitigates against the sanction of revocation proposed by the Department.


ORDER

IT IS HEREBY ORDERED THAT:

1. The New York medical license of **JOHN MICHAEL PUSKAS, M.D.** is hereby **REVOKED.**

This **ORDER** shall be effective upon service on the Respondent pursuant to Public Health Law section 230(10)(h).

DATED: Niagara Falls, New York
9/25/, 2003

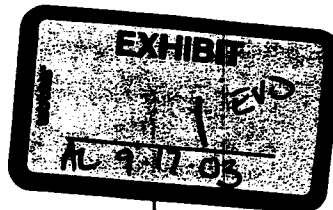


STEVEN V. GRABIEC, M.D.
Chairperson

STEVEN PINSKY, M.D.
WILLIAM W. WALENCE, PH.D.

APPENDIX 1

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



IN THE MATTER
OF
JOHN MICHAEL PUSKAS, M.D.
CO-03-06-2809-A

NOTICE OF
REFERRAL
PROCEEDING

TO: JOHN MICHAEL PUSKAS, M.D.
193 Iron Mountain Blvd.
Lake Oswego, OR 97034

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 20th day of August 2003, 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. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter

"Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before August 11, 2003.

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 August 11, 2003, 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 25, 2003

Peter D. Van Buren

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

JOHN MICHAEL PUSKAS, M.D.
CO-03-06-2809-A

STATEMENT

OF

CHARGES

JOHN MICHAEL PUSKAS, M.D., the Respondent, was authorized to practice medicine in New York state on June 19, 1974, by the issuance of license number 120273 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 2, 1998, the Board of Medical Examiners, State of Oregon, (hereinafter "Oregon Board") by an Emergency Suspension Order (hereinafter "Oregon Order I") suspended Respondent's license to practice medicine until otherwise ordered by the Board, based on his continued practice of medicine constituting an immediate danger to the public.

B. On or about February 19, 1999, the Oregon Board, by a Corrective Action Order (hereinafter "Oregon Order II") ordered Respondent to maintain a physician/patient relationship with a psychiatrist approved by the Board's Investigative Committee who shall submit written monthly reports for one year and quarterly reports thereafter regarding Respondent's status and ability to safely and competently practice medicine, based on having difficulty practicing competently.

C. On or about October 19, 2001, the Oregon Board, by a Final Order (hereinafter "Oregon Order III"), revoked Respondent's license to practice medicine, based on his willful violation of and continuing refusal to comply with Oregon Order II, described in paragraph B above.

D. The conduct resulting in the Oregon Board disciplinary actions 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(8) (having a psychiatric condition which impairs the licensee's ability to practice); and/or
2. New York Education Law §6530(29) (violating any term of probation or limitation imposed on the licensee).

E. On or about April 21, 2003, the State of Washington, Department of Health, Medical Quality Assurance Commission (hereinafter "Washington Board"), by a Findings of Fact, Conclusions of Law, Final Order of Default, (hereinafter "Washington Order"), that REVOKED Respondent's license to practice medicine in the State of Washington for a period of no less than ten (10) years, based on the actions of the Oregon Board as described in Paragraph A, B, C, D, and E above, and

F. The conduct resulting in the Washington Board disciplinary action against Respondent would constitute misconduct and the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(9)(d) (having his license to practice medicine revoked after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation of the license would, if committed New York state, constitute professional misconduct under the laws of New York state).

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

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, B, C and/or D;
2. The facts in Paragraphs A, B, C, D, E and/or F.

THIRD AND FOURTH SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

3. The facts in Paragraphs A, B, C and/or D;
4. The facts in Paragraphs A, B, C, D, E and/or F.

DATED: *July 25*, 2003
Albany, New York

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