



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

May 10, 2004

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Elliott J. Ture~~z~~⁺ky, D.O.
P.O. Nox 13504
Las Vegas, Nevada 89112

Robert Bogan, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180

RE: In the Matter of Elliott J. Ture~~z~~⁺ky, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 04-104) 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 cursive script that reads "Sean D. O'Brien". The signature is written in black ink and is positioned above the printed name.

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:djh
Enclosure

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

COPY

DETERMINATION

AND

ORDER

BPMC NO. 04-104

IN THE MATTER
OF
ELLIOTT J. TURET^ZSKY, D.O.

A Commissioner's Summary Order dated on an unspecified date in October, 2003, and a Notice of Referral Proceeding and Statement of Charges, both dated March 22, 2004, were served upon the Respondent, **ELLIOTT J. TURET^ZSKY, D.O.** **JOSEPH A. MESSINA, M.D.**, Chairperson, **JAMES T. ADAMS, M.D.**, and **MR. CHARLES AHLERS**, 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 April 22, 2004, 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, although duly notified of the hearing, failed to answer the charges, to appear at the hearing (in person or by counsel) or to present any evidence.

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 Sections 230(12)(b) and 230(10)(p).

The first cited statute provides, among other things, that when the duly authorized professional disciplinary agency of another state has made a finding substantially equivalent to a finding that the practice of medicine by a licensee in that jurisdiction constitutes an imminent danger to the health of its people, or when a licensee has been disciplined by a duly authorized professional disciplinary agency of another state for acts which if committed in this state would have constituted the basis for summary action by the Commissioner of Health pursuant to paragraph (a) (imminent danger), the commissioner, after recommendation by a committee of professional misconduct, may order the licensee to discontinue or refrain from the practice of medicine in whole or in part or to take other actions immediately.

The latter 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 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 Commissioner issued a summary order prohibiting Respondent from practicing medicine in New York, based upon the issuance by the

Nevada State Board of Osteopathic Medicine ("the Nevada Board") of an order containing a finding substantially equivalent to a finding that the practice of medicine by Respondent constituted an imminent danger to the health, safety and welfare of that state's people. In addition, Respondent is charged pursuant to Public Health Law §230(10)(p) with professional misconduct pursuant to Education Law Sections 6530(9)(b) and (d), based upon actions that would constitute violations of subdivisions (8)(having a psychiatric condition which impairs the ability to practice), and (15)(failure to comply with an order of the Board, if committed in New York. Copies of the Commissioner's Order, the Notice of Referral Proceeding and the Statement of Charges are 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. **ELLIOTT J. TURET^ZSKY, D.O.**, the Respondent, was authorized to practice medicine in New York State on July 1, 1969, by the issuance of license number 103785 by the New York State Education Department (Ex. 5).
2. On May 20, 2003, the Nevada Board issued an Emergency Order of Summary Suspension of License against Respondent based upon evidence that he was professionally incompetent by reason of mental impairment, and the conclusion that his continuing practice of medicine or the continued ability to do so would endanger the health, safety and welfare of his patients. It was further ordered that Respondent submit to a mental and physical examination by one of several physicians to be designated by the Board (Ex. 1).
3. On a date in October, 2003 not noted on the document itself, the Commissioner issued a Summary Order prohibiting Respondent from practicing medicine in New York, based upon the Nevada summary suspension. Respondent was advised that the suspension would stay in effect until the final conclusion of a hearing to commence within 30 days after the final conclusion of the Nevada disciplinary proceeding, and that the proceedings could result in a determination that, among other things, his New York license be suspended or revoked (Ex. 1).
4. On February 13, 2004, the Nevada Board issued an order revoking Respondent's license to practice in that state on the grounds that he was mentally impaired and lacked the ability to practice osteopathic medicine safely and skillfully, and that he had failed to comply with the Board's previous order that he submit to a mental and physical examination. Although duly notified, Respondent did not attend the hearing scheduled to address the complaint against him (Ex. 6).

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the conduct resulting in the Nevada Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to New York Education Law §6530(9)(b) and (d), in that the conduct would have constituted misconduct in New York, had it been committed here, under:

- New York Education Law §6530(8)(having a psychiatric condition that impairs the ability to practice); and
- New York Education Law §6530(15)(failure to comply with an order of a Board committee to submit to a medical or psychiatric examination when there is reason to believe the licensee is impaired);

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: SUSTAINED (3-0)

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 of New York State.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case establishes that Respondent was summarily suspended from the practice of osteopathic medicine by the Nevada Board, then had his license revoked, on the ground that he was mentally impaired for practice and that he had ignored a Board order to submit to a mental and physical examination. The Nevada Board action was instituted after Respondent was hospitalized twice in two days after having been brought to the hospital by the police, who discovered him "...living in bio-hazardous conditions, i.e., rotting food, feces, maggots, and cups of urine' in his truck (Ex. 1).

Respondent was unable to be served with notice of this hearing personally because he had no home address, only a post-office box. Respondent was served, with both the Commissioner's Order and the Notice of Referral Hearing and Statement of Charges, by Certified Mail (Ex.'s 2(a) and 3)), and the Administrative Law Judge ruled that this service was sufficient to invoke jurisdiction of the Hearing Committee pursuant to §230(10)(d).

Respondent failed to file an answer to the statement of charges in the instant case, failed to appear at the instant hearing, and failed to provide any evidence. There is, therefore, no evidence to counter the evidence of mental impairment set forth in the Nevada documents, and no basis to conclude other than that Respondent's continued ability to practice in this state presents a danger to the health and safety of New York residents.

Accordingly, the Hearing Committee feels it has no reasonable choice but to revoke Respondent's New York medical license. Respondent may reapply for a license after three years, and be prepared to present evidence that he is, at such time, able to safely practice medicine.

ORDER

IT IS HEREBY ORDERED THAT:

1. The New York medical license of ELLIOTT J. TURETS^zSKY, M.D. is hereby **REVOKED**.

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

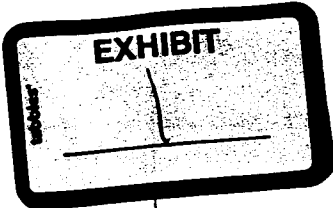
DATED: Rochester, New York
5/5, 2004



JOSEPH A. MESSINA, M.D.,
Chairperson

JAMES T. ADAMS, M.D.
MR. CHARLES AHLERS

APPENDIX 1



IN THE MATTER

OF

ELLIOTT J. TURETZKY, D.O.
CO-03-06-2805-A

COMMISSIONER'S
SUMMARY
ORDER

TO: ELLIOTT J. TURETZKY, D.O.
P.O. Box 13504
Las Vegas, NV 89112

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of Health, pursuant to N.Y. Public Health Law §230, upon the recommendation of a committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the Nevada State Board of Osteopathic Medicine (hereinafter "Nevada Board") has made a finding substantially equivalent to a finding that the practice of medicine by **ELLIOTT J. TURETZKY, D.O.**, Respondent, licensed to practice medicine in New York state on July 1, 1969, by license number 103785, in that jurisdiction, constitutes an imminent danger to the health, safety, and welfare of its people, as is more fully set forth in documents of the Nevada Board, attached hereto, as Appendix "A," and made a part hereof.

It is, therefore:

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, **ELLIOTT J. TURETZKY, D.O.**, Respondent, shall not practice medicine in the state of New York or in any other jurisdiction where that practice is dependent on a valid New York state license to practice medicine.

Any practice of medicine in the state of New York or in any other jurisdiction where that practice is dependent on a valid New York state license to practice medicine in violation of this Commissioner's Summary Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530 and may constitute unauthorized medical practice, a felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing that shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in the state of Nevada. The hearing will be held pursuant to the provisions of NY. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct, on a date and at a location to be set forth in a written Notice of Summary Hearing, together with a Statement of Charges, to be provided to the Respondent after the final conclusion of the Nevada proceeding. Said written Notice may be provided in person, by mail or by other means. If Respondent wishes to be provided said written notice at an address other than those set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth on this Order and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299 via Certified Mail, Return Receipt Requested, of the final conclusion of the Nevada proceeding, immediately upon such conclusion.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU MAY BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW SECTION 230-A. YOU ARE URGED TO OBTAIN AN ATTORNEY FOR THIS MATTER.

DATE: Albany, New York

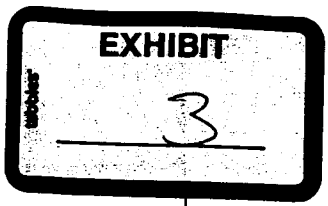
October, 2003



ANTONIA C. NOVELLO, M.D., M.P.H, Dr. P. H.
Commissioner

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828



IN THE MATTER
OF
ELLIOTT TURET^ZSKY, DO
CO-03-06-2805-A

NOTICE OF
REFERRAL
PROCEEDING

TO: ELLIOTT TURET^ZSKY, DO
P.O. Box 13504
Las Vegas, NV 89112

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 April 2004, at 10:00 in the forenoon of that day at the Hedley Park Place, 433 River Street, 4th Floor, Board Room, 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. SEAN O' BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before April 12, 2004.

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 April 12, 2004, 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.

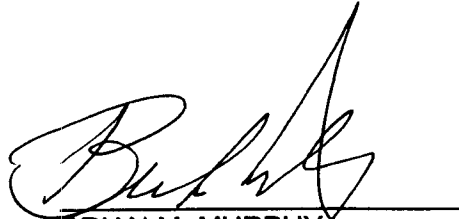
The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

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 22, 2004

Depliant Ayrwal 4/5/04



BRIAN M. MURPHY
Chief 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

^Z
ELLIOTT TURET\$KY, DO
CO-03-06-2805-A

STATEMENT

OF

CHARGES

^Z
ELLIOTT TURET\$KY, DO, the Respondent, was authorized to practice medicine in New York state on July 1, 1969, by the issuance of license number 103785 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 13, 2004, the Nevada Board of Osteopathic Medicine (hereinafter "Nevada Board"), by Order (hereinafter "Nevada Order"), REVOKED Respondent's license to practice osteopathic medicine, based on being mentally impaired and lacking the ability to safely and skillfully practice osteopathic medicine and failure to obey an order of the Nevada Board to submit to a mental or physical examination.

B. The conduct resulting in the Nevada Board disciplinary action 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 ability to practice); and/or
2. New York Education Law §6530(15) (failure to comply with an order of the Board).

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 findings 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 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 of New York state, in that Petitioner charges:

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

DATED: *March 22*, 2004
Albany, New York


BRIAN M. MURPHY
Chief Counsel
Bureau of Professional Medical Conduct