



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

April 27, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Doina Maria Buzea, M.D.
42 Wayside Drive
White Plains, New York 10607

Andrew B. Bowman, Esq.
1804 Post Road East
Westport, Connecticut 06880

Daniel Guenzburger, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

RE: In the Matter of Doina Maria Buzea, M.D.

Dear Dr. Buzea, Mr. Bowman and Mr. Guenzburger:

Enclosed please find the Determination and Order (No. BPMC-93-55) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

New York State Department of Health
Office of Professional Medical Conduct
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must than 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 (p), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he determination of a committee on professional medical conduct may be reviewed by the administrative review board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

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

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Corning Tower -Room 2503
Empire State Plaza
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Very truly yours,

Tyrone T. Butler

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nam
Enclosure

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

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IN THE MATTER : HEARING
OF : COMMITTEE'S
DOINA MARIA BUZEA, M.D. : DETERMINATION
: AND
: ORDER NO. BPMC-93-55

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A Notice of Hearing and Statement of Charges both dated December 9, 1992 were served upon the Respondent, Doina Maria Buzea, M.D. THEA GRAVES PELLMAN, Chairperson, MARTIN CHERKASKY, M.D. and RICHARD N. PIERSON, JR., M.D. duly designated members of the State Board for Professional Medical Conduct served as the Hearing Committee in this matter pursuant to §230(10)(e) of the Public Health Law (PHL). Benjamin J. Migliore, Esq., Administrative Law Judge, served as the Administrative Officer. A hearing was held on February 23, 1993. The Department of Health appeared by Daniel Guenzburger, Esq., Assistant Counsel. The Respondent was represented by Andrew B. Bowman, Esq. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

The case was brought pursuant to Public Health Law §230(10)(p). The statute provides for the expedited hearing where a licensee is charged with a violation of Education Law §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or

upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York State. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to N.Y. Education Law §6530(9)(b) (McKinney's Supp. 1992). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to the transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Doina Maria Buzea, M.D. (hereinafter Respondent) was authorized to practice medicine in New York State on December 9, 1985 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 to December 31, 1992. (Pet. Ex. #1)

2. On January 15, 1991, the Respondent entered into a Consent Order with the Connecticut Medical Examining Board,

wherein Respondent admitted that during her employment at the Greenwich Acupuncture Center in Greenwich, Connecticut she had signed Medicare reimbursement forms indicating she had provided services, when in fact she had not done so and that she put diagnoses on patient records when she in fact had not seen those patients. (Pet. Ex. #3)

3. On June 12, 1991, Respondent pleaded guilty in a plea agreement to a one count information charging her with causing a false statement to be made in a claim for a Medicare payment, in violation of Title 42, U.S. Code, §1320a-7b(a)(1)(ii), a misdemeanor. (Pet. Ex. #8) On January 27, 1993, Respondent received the following sentence: imposition suspended, probation for one year and a \$2,000.00 fine. (Resp. Ex. A)

4. On January 10, 1991, the Connecticut Medical Examining Board issued a Consent Order executed by the Respondent under which she agreed to the following penalty:

- (i) that if she reapplies for a license to practice medicine in Connecticut, she shall be placed on probation for two years, and she shall be monitored in her medical practice by a Connecticut licensed physician;
- (ii) reports are required to be submitted by the monitoring physician examining the quality of her practice; and

(iii) that she shall not supervise individuals providing acupuncture services or any medical service in which she does not have specialized training.

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee unanimously concluded that the Department of Health had met its burden of proof. The preponderance of the evidence clearly demonstrated that Respondent's conduct in Connecticut if committed in New York State would constitute professional misconduct under New York Education Law §6530(32) and §6530(9)(a)(ii).

As a result, the Hearing Committee sustained each of the specifications of misconduct alleged in the Statement of Charges.

The Hearing committee took official notice that Respondent entered her plea of guilty to a misdemeanor charge, not a felony charge, in the U.S. District Court for the District of Connecticut.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, determined that Respondent shall be bound by the following provisions:

- a) she shall be placed on probation for five years during which time she shall be reviewed at least once a year by a New York licensed physician approved by the Office of Professional Medical Conduct;
- b) the terms and conditions of the medical review shall be determined by the Office of Professional Medical Conduct;
- c) in the event the Respondent changes her employment, practice or residence, she must notify the Office of Professional Medical Conduct;
- c) if Respondent returns to private practice during the probation period, she may not participate as a Medicaid or Medicare provider;
- e) the Medical Director of the institution where she is presently employed (Terence Cardinal Cooke Health Care Center) must submit an annual report to the Office of Professional Medical Conduct examining the quality of her work and the areas of medicine in which she is practicing. This annual report will be required to be submitted by any new employer during the period of probation; and
- f) if the terms and conditions of probation are violated, Respondent's license to practice medicine shall be immediately revoked.

In the event that Respondent leaves New York to reside or practice outside the State, the Respondent shall notify the Office of Professional Medical Conduct. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.

The Committee's determination as to penalty to be imposed was reached after due consideration of the full spectrum of available penalties, including revocation, censure and reprimand, or the imposition of civil penalties.

Respondent admitted that while employed at the Greenwich Acupuncture Center she signed Medicare reimbursement forms indicating that she had provided services when in fact she had not done so, a clear violation of Federal law. Respondent's misconduct was serious and warrants a significant penalty, one which is greater than a mere censure and reprimand.

The Hearing Committee took into consideration the fact that Respondent agreed to cooperate with the Federal government in the prosecution of the owners (Tsoi and Chan) of the Greenwich Acupuncture Center. The Hearing Committee also considered the strong support for the Respondent demonstrated by the representative from the Terence Cardinal Cooke Health Care Center and the letter of support from the Medical Director of the Terence Cardinal Cooke Health Care Center.

Respondent's conduct constituted a serious breach of trust. Nevertheless, it was the consensus of the Hearing

Committee that revocation of her medical license was not warranted. However, the Hearing Committee had some serious concerns regarding the trustworthiness of the Respondent in private practice. Therefore, the Committee decided to prohibit all reimbursement for claims under Medicaid and Medicare during the period of her probation.

The Hearing Committee believes that successful completion of the probation terms and conditions will enable Respondent to restore her medical practice to the appropriate clinical and ethical standards expected of members of the profession.

ORDER

Based upon the foregoing, it is hereby ordered that:

1. The Specifications of professional misconduct contained within the Statement of Charges are **sustained**; and
2. Respondent's license to practice medicine in New York State shall be subject to the terms and conditions as set forth herein.

DATED: West Hempstead, New York

April 9, 1993



THEA GRAVES PELLMAN
Chairperson

Martin Cherkasky, M.D.
Richard N. Pierson, Jr., M.D.

TO: Doina Maria Buzea, M.D.
42 Wayside Drive
White Plains, New York 10607

Andrew B. Bowman, Esq.
1804 Post Road East
Westport, Connecticut 06880

Daniel Guenzburger, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

APPENDIX I

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

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IN THE MATTER : STATEMENT
OF : OF
DOINA MARIA BUZEA, M.D. : CHARGES
-----X

DOINA MARIA BUZEA, M.D., the Respondent, was authorized to practice medicine in New York State on December 9, 1985 by the issuance of license number ~~164958~~ 164958 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 to December 31, 1992 at 42 Wayside Drive, White Plains, New York, 10607.

FIRST SPECIFICATION

1. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(b) (McKinney Supp. 1992), in that she has been found guilty of improper professional practice or professional misconduct 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, specifically:

On or about January 15, 1991, the Connecticut Medical Examining Board ("Board") found, based upon Respondent's admission in a Consent Order, that Respondent was guilty of improper professional practice in violation of Connecticut General Statute Section 20-13c. Respondent admitted that while she was employed at the Greenwich Acupuncture Center, Greenwich, Connecticut, between May, 1987 and April, 1989, she recorded diagnoses on patient records without examining the patient. These acts, if committed in New York State, would have constituted failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient under Educ. Law Sec. 6530(32) (McKinney Supp. 1992).

The Board prohibited the Respondent from ever supervising individuals providing acupuncture or any medical service in which she lacked specialized training and ordered that Respondent's practice be monitored during a two year period of probation.

SECOND SPECIFICATION

2. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(d), (McKinney Supp. 1992), in that disciplinary action was taken against her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action taken against her license would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically:

The Petitioner repeats the allegations set forth in Specification One. Such conduct, if committed in New York State, would have constituted failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient under N.Y. Educ. Law Section 6530(32) (McKinney Supp. 1992).


THIRD SPECIFICATION

3. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(ii) (McKinney

Supp. 1992), in that she was convicted of an act constituting a crime under Federal law, specifically:

On or about June 12, 1991, the Respondent was convicted after a plea of guilty in the United States District Court for the District of Connecticut, of violating 42 U.S.C. Section 1320a-7b(a)(1)(i), in that she knowingly and willfully made false statements on a claim for Medicare payment. The Respondent admitted that on or about May 15, 1987, she represented on a Medicare claim that she had personally performed or supervised physical therapy services for a patient at the Greenwich Acupuncture Center, when in fact she knew that she had neither personally performed nor supervised physical therapy services for the patient. The Respondent has not yet been sentenced on this conviction.

DATED: New York, New York
December 9, 1992



Chris Stern Hyman
Counsel
Bureau of Professional Medical
Conduct