



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

Public

Dennis P. Whalen
Executive Deputy Commissioner

August 17, 2005

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Natalia Gurevich, M.D.
31-23 Crescent Street
Apartment 2C
Astoria, New York 11106

Natalia Gurevich, M.D.
Metro-Med
466 Main Street
New Rochelle, New York 10801

Robert Mahar, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street - 4th Floor
Troy, New York 12180

RE: In the Matter of Natalia Gurevich, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 05-85) of the Professional Medical Conduct Administrative Review Board 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.

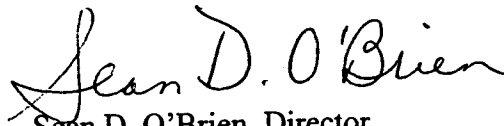
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

A handwritten signature in black ink that reads "Sean D. O'Brien". The signature is written in a cursive style with a large initial "S" and "D".

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

In the Matter of

Natalia Gurevich, M.D. (Respondent)

**A proceeding to review a Determination by a
Committee (Committee) from the Board for
Professional Medical Conduct (BPMC)**

Administrative Review Board (ARB)

Determination and Order No. 05-85

COPY

**Before ARB Members Grossman, Lynch, Pellman, Wagle and Briber
Administrative Law Judge James F. Horan drafted the Determination**

**For the Department of Health (Petitioner):
For the Respondent:**

**Paul Robert Maher, Esq.
Pro Se**

Following a hearing below, a BPMC Committee voted to suspend the Respondent's license to practice medicine in New York State (License) and to place the Respondent on probation, following the Respondent's felony conviction under New York Law. In this proceeding pursuant to N.Y. Pub. Health Law (PHL) § 230-c (4)(a)(McKinney Supp. 2005), both parties ask the ARB to modify that Determination. After reviewing the record and the parties' review submissions, the ARB holds that the Committee acted inappropriately in limiting the penalty to suspension and probation. We conclude that the Respondent's criminal conduct demonstrates her unfitness to practice medicine in New York State. On our own motion, we vote 5-0 to revoke the Respondent's License.

Committee Determination on the Charges

The Committee conducted a hearing in this matter under the expedited hearing procedures (Direct Referral Hearing) in PHL § 230(10)(p). In the hearing, the Petitioner charged that the Respondent violated N. Y. Educ. Law (EL) §§ 6530(9)(a)(i) (McKinney Supp. 2005) and

committed professional misconduct by engaging in conduct that resulted in a criminal conviction under New York Law. In a Direct Referral Proceeding, the statute limits the Committee to considering whether a criminal conviction occurred, and if the Committee determines a conviction occurred, the Committee then determines the nature and the extent of the penalty to impose against the licensee, Wolkoff v. Chassin, 89 N.Y.2d 250 (1996). The Direct Referral Proceeding began under an order from the Commissioner of Health, pursuant to PHL §230(12)(b), which suspended the Respondent's License summarily, due to a felony conviction.

Following the hearing, the Committee rendered a written Determination that the Respondent entered a guilty plea in New York State Supreme Court for Queens County in July 2004. The Respondent admitted to Attempted Enterprise Corruption, a Class C Felony. The Committee found that the crime involved intentionally conducting or participating in the affairs of an enterprise by participating in a pattern of criminal activity. The Respondent participated in a scheme at the Medical Arts Center of Jamaica Queens, her place of employment, to defraud insurance companies. The scheme involved causing bills for unnecessary medical services to be submitted for persons involved in minor automobile accidents, both actual and staged. The Respondent admitted to preparing medical reports for patients, which contained false entries. These reports formed the basis for false insurance claims. The Committee determined that the Respondent's conduct constituted misconduct under EL § 6530(9)(a)(i).

The Committee voted to suspend the Respondent's License for one year, to place the Respondent on probation for five years following the suspension and to order that the Respondent undergo complete medical, psychiatric and substance abuse evaluations. The Committee made the suspension retroactive to December 20, 2004, the date the Commissioner of Health issued the summary suspension order. The Committee concluded that the Respondent's conduct warranted a significant penalty. The Committee decided against revoking the Respondent's License due to recommendations from colleagues, which described the Respondent as a competent, caring physician. The Committee stated that they included certain conditions in the probation due to evidence that, following the arrest on the criminal charge in May 2004, the Respondent was hospitalized for treatment of major depression disorder and

alcohol dependence. The evidence also showed that the Respondent has not worked since the hospitalization. The probation terms required that the Respondent undergo a complete psychiatric, medical, and substance abuse evaluation.

Review History and Issues

The Committee rendered their Determination on April 29, 2005. This proceeding commenced on May 17, 2005, when the ARB received the Respondent's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Petitioner's brief and the Respondent's reply brief. The record closed when the ARB received the response brief on July 27, 2005. The Respondent also submitted a letter on August 8, 2005 that attached additional documents. The additional documents were already in evidence and were referenced in the Committee's Determination.

The Petitioner asks the ARB to modify the Committee Determination because the Committee's order, that the Respondent obtain an evaluation, contains no guidelines for enforcing and implementing any remedial measures that the evaluation may identify as necessary. The Petitioner proposes modifications that would require a suspension, followed by probation, and an evaluation. The modifications would also bar the Respondent from returning to active practice following the suspension, until the Respondent petitions for and receives a modification order from BPMC. The Petitioner also requests that the ARB limit the Respondent to practice in a supervised setting.

The Respondent's brief argued that the Respondent's psychiatric condition faltered immediately after her arrest, but the Respondent argues that she has no prior history of mental illness or depression. The Respondent contends that the ARB should not assume that the Respondent's condition after her arrest in any way impairs her ability as a medical professional

in the future. The Respondent also opposed any change in the Committee's Order that would result in additional probation terms, such as the Petitioner's brief requested. The Respondent apparently misunderstood the Petitioner's brief. The Respondent referred to the Petitioner's brief as an additional order and asked why there had been changes to the Committee's Determination.

ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL §230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd. 195 A.D.2d 86, 606 N.Y.S.2d 381 (3rd Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct 205 A.D.2d 940, 613 NYS 2d 759 (3rd Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3rd Dept. 1995). The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin, 89 N.Y.2d 828 (1996). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3rd Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.

Determination

The ARB has considered the record and the parties' briefs. We affirm the Committee's Determination that the Respondent's criminal conduct constituted professional misconduct. Neither party challenged the Committee's Determination on the charge. We reject the request by both parties for modifications to the Committee's Determination. We elect to exercise our authority in this matter to substitute our judgment for that of the Committee in deciding upon a penalty. On our own motion, we overrule the Committee and revoke the Respondent's License.

The Committee found that the Respondent's felonious behavior constituted a clear and egregious violation of both the criminal law and the ethical standards of the medical profession. The Committee stated that they could find little evidence in the record to support leniency and the Committee found the Respondent's crimes no less serious due to the Respondent's mental condition or alcohol abuse. We agree with the Committee to this point. We disagree with the Committee's conclusion that the recommendations from the Respondent's colleagues provide

evidence weighing against revocation¹. We find the Committee's penalty inappropriate and inconsistent with the Committee's conclusions about the serious nature of the Respondent's conduct and her unwillingness or inability to recognize her misconduct [Committee Determination page 5].

The Respondent used her License to engage in a criminal scheme. The Respondent made false entries in medical records to support false insurance claims and to defraud insurance companies. The Respondent's unwillingness at hearing, to admit the wrongfulness of her acts or her inability to recognize the wrongfulness, leads the ARB to conclude that the Respondent remains at risk to repeat her misconduct, if we allow her to retain her License. We conclude that the Respondent has demonstrated her unfitness to practice medicine in New York State and we find inappropriate the requests by the Petitioner and the Respondent to modify the Committee's Determination on penalty.

The ARB votes 5-0 to overturn the Committee and, on our own motion, we revoke the Respondent's License.

¹The recommendations appear in the record as Tab C to the Respondent's Hearing Exhibit B and as attachments to the Respondent's August 3, 2005 letter to the ARB.

ORDER

NOW, with this Determination as our basis, the ARB renders the following **ORDER**:

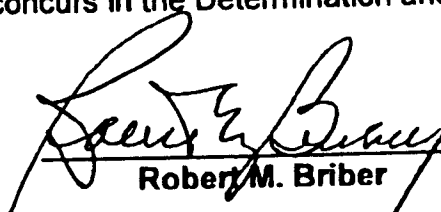
1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB overturns the Committee's Determination to suspend the Respondent's License for one year, to place the Respondent on probation for five years following the suspension and to order that the Respondent undergo psychiatric and substance abuse evaluations.
3. The ARB revokes the Respondent's License.

Robert M. Briber
Thea Graves Pellman
Datta G. Wagle, M.D.
Stanley L. Grossman, M.D.
Therese G. Lynch, M.D.

In the Matter of Natalia Gurevich, M.D.

Robert M. Briber, an ARB Member, concurs in the Determination and Order in the Matter of Dr. Gurevich.

Dated: August 16, 2005



Robert M. Briber

In the Matter of Natalia Gurevich, M.D.

Thea Graves Pellman, an ARB Member concurs in the Determination and Order in the Matter of Dr. Gurevich.

Dated: Aug 15, 2005

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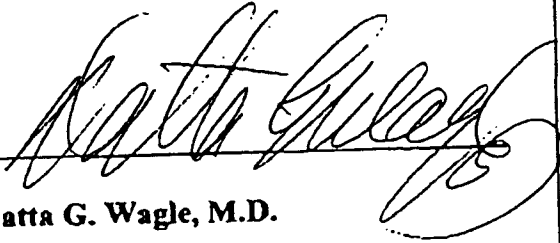
Thea Graves Pellman

In the Matter of Natalia Gurevich, M.D.

Datta G. Wagle, M.D., an ARB Member concurs in the Determination and Order in the

Matter of Dr. Gurevich.

Dated: 8/15/, 2005



A handwritten signature in cursive script, appearing to read "Datta G. Wagle", is written over a horizontal line. The signature is fluid and somewhat stylized.

Datta G. Wagle, M.D.

In the Matter of Natalia Gurevich, M.D.

Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the

Matter of Dr. Gurevich.

Dated: August 17, 2005


Stanley L. Grossman M.D.

Stanley L. Grossman, M.D.

In the Matter of Natalia Gurevich, M.D.

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in
the Matter of Dr. Gurevich.

Dated: Aug 15, 2005

A handwritten signature in cursive script that reads "Therese G. Lynch M.D." with a stylized flourish at the end.

Therese G. Lynch, M.D.