



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

December 18, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Eugene Inch, M.D.
14 Division Avenue
Massapequa, New York 11758

Eugene Inch, M.D.
25 Park Avenue
White Plains, New York 10607

Peter D. Bark, Esq.
Bark & Karpl
320 Carleton Avenue, Suite 4200
Central Islip, New York 11722

Robert Bogan, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180-2299

RE: In the Matter of Eugene Inch, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 07-281) 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.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the Respondent or the Department may seek a review of a committee determination.

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.

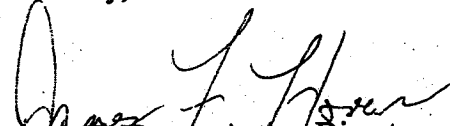
The notice of review served on the Administrative Review Board should be forwarded to:

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,


James F. Horan, Acting Director
Bureau of Adjudication

JFH:djh

Enclosure

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

COPY

IN THE MATTER
OF
EUGENE INCH, M.D.

DETERMINATION
AND
ORDER

BPMC NO. 07-281

A hearing was held on November 15, 2007, 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 August 9, 2007, were served upon the Respondent, **Eugene Inch, M.D.**. Pursuant to Section 230(10)(e) of the Public Health Law, **Scott B. Groudine, M.D.**, Chairperson, **Arsenio G Agopovich, M.D.**, and **Peter S. Koenig, Sr.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **William J. Lynch, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent appeared at the hearing and was represented by **Peter D. Bark, Esq.**

Evidence was received and transcripts of these proceedings were made.

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

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. Eugene Inch, M.D., the Respondent, was authorized to practice medicine in New York State on September 4, 1973, by the issuance of license number 117238 by the New York State Education Department (Petitioner's Ex. 4).

2. On or about November 21, 2006, in the District Court of Nassau County, New York, Respondent was found guilty, based on a plea of guilty, of Criminal possession of a controlled substance in the seventh degree, in violation of New York Penal Law section 220.03, a class A misdemeanor, and on or about April 24, 2007, was sentenced to a \$500.00 fine or 60 days imprisonment (adjourned), a six month operator's license suspension, three years probation, a \$20.00 CVAF and a \$140.00 surcharge (both adjourned).

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent admitted the factual allegation and did not contest the specification contained in the Statement of Charges. He explained to the Hearing Committee that he was employed for 23 years at a residential facility for emotionally

disturbed children and adolescents, and that he stopped practicing medicine following his assault by a resident at the facility in 2003. He acknowledged that he became depressed, and that he exercised poor judgment when he attempted to treat his depression by using illegal drugs. He further testified that he suffered a stroke in 2005. Respondent who is now 64 years of age expressed a desire to resume employment in the field of medicine at some point, perhaps a teaching position. He recognizes that he is psychologically and emotionally unable to resume his prior 80 hour per week pediatric practice. Since August 2006, Respondent has had weekly counseling sessions and undergone drug testing.

Petitioner considered Respondent's testimony to be honest and sincere. Accordingly, Petitioner recommended that Respondent be placed on probation for three years and required to participate with the Committee for Physician ("CPH"), not so much as a penalty but as a means to ensure the public's safety. The Hearing Committee concurs with this assessment and recommendation but believes that some additional safeguards must be put in place before Respondent returns to the practice of medicine. Respondent has not practiced medicine or taken any continuing medical education in over four years, and he acknowledges that his physical and emotional capacity is diminished. To address these issues, the Committee concludes that Respondent must enroll in a course of one hundred (100) hours of continuing medical education, approved by the Director of OPMC. In addition, the Hearing Committee determined that Respondent's license to practice medicine should be permanently limited to prohibit him from practicing medicine in excess of forty hours per week.

ORDER


IT IS HEREBY ORDERED THAT:

1. Respondent is placed on probation for three years. The terms of probation are annexed and attached hereto;
2. Respondent shall enroll in the Committee for Physician Health ("CPH") and shall engage in a contract with CPH that defines the terms, conditions and duration of Respondent's recovery program. Respondent shall comply with the contract. Respondent shall give written authorization for CPH to provide the Director of Office of Professional Medical Conduct ("OPMC") with all information or documentation requested by OPMC to determine whether Respondent is in compliance with the contract and this Order, including full access to all records maintained by CPH with respect to Respondent. Respondent shall cause CPH to report to OPMC promptly if Respondent refuses to comply with the contract, refuses to submit to treatment or if Respondent's impairment is not substantially alleviated by treatment. Respondent shall also cause CPH to report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.
3. Respondent shall successfully complete 100 hours of continuing medical education. The courses shall be proposed by Respondent and are subject to the prior written approval of OPMC (NYS Department of Health, Office of Professional Medical Conduct, 433 River Street, Troy, NY 12180). Only courses approved in writing by OPMC shall satisfy the requirement of this Order. Respondent must submit written documentation of successful completion of this continuing legal education requirement prior to resuming the practice of medicine;

4. Respondent's license to practice medicine as a physician in New York State is hereby permanently limited in that Respondent is prohibited from practicing medicine in excess of forty hours per week.

5. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Latham, New York
Dec. 13, 2007



Scott B. Groudine, M.D.
Chairperson

Arsenio G. Agopovich, M.D.
Peter S. Koenig, Sr.

TO:
Eugene Inch, M.D.
14 Division Avenue
Massapequa, New York 11758

Bark & Kampf
Peter D. Bark, Esq.
Attorney for Respondent
Suite 4200
320 Carleton Avenue
Central Islip, New York 11722

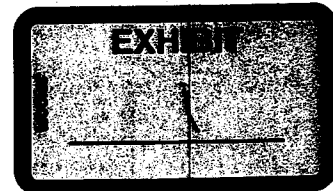
Robert Bogan, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
433 River Street, Suite 303
Troy, New York 12180-2299

Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

APPENDIX I

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



IN THE MATTER

NOTICE OF

OF

REFERRAL

**EUGENE INCH, M.D.
CO-07-05-2424-A**

PROCEEDING

**TO: EUGENE INCH, M.D.
14 Division Avenue
Massapequa, NY 11758**

**EUGENE INCH, M.D.
25 Park Avenue
White Plains, NY 10607**

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§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 September, 2007, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. 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 which 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, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such 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 written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §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. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.


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

Aug. 9, 2007


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
EUGENE INCH, M.D.
CO-07-05-2424-A

STATEMENT
OF
CHARGES

EUGENE INCH, M.D., Respondent, was authorized to practice medicine in New York state on September 4, 1973, by the issuance of license number 117238 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 21, 2006, in the District Court of Nassau County, New York, Respondent was found guilty, based on a plea of guilty, of Criminal possession of a controlled substance in the seventh degree, in violation of New York Penal Law, § 220.03, a class A misdemeanor, and on or about April 24, 2007, was sentenced to a \$500.00 fine or sixty (60) days imprisonment (adjourned), a six (6) month operator's license suspension, three (3) years probation, and a \$20.00 CVAF and a \$140.00 surcharge (both adjourned).

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by having been found guilty of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *Aug. 9*, 2007
Albany, New York

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