



# 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*

May 10, 1994

## **CERTIFIED MAIL - RETURN RECEIPT**

Marcia Kaplan, Esq.  
Associate Counsel  
New York State Department of Health  
5 Penn Plaza - Sixth Floor  
New York, New York 10001

Harvey L. Dannis, M.D.  
10831 Bronco Circle  
Santa Ana, CA 92705

**Re: In the Matter of Harvey L. Dannis, M.D.**

Dear Ms. Kaplan and Dr. Dannis:

Enclosed please find the Determination and Order (No. BPMC-94-59) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 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 (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.

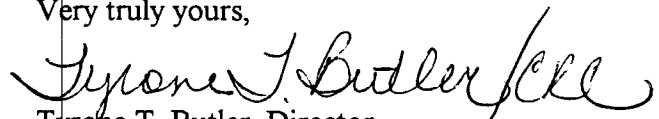
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative  
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, Director  
Bureau of Adjudication

TTB:crc

Enclosure

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

**IN THE MATTER  
OF  
HARVEY L. DANNIS, M.D.**

**DETERMINATION  
AND  
ORDER  
BPMC-94-59**

A Notice of Referral Proceedings and Statement of Charges, both dated March 3, 1994, were served upon the Respondent, Harvey L. Dannis, M.D.

Terri L. Weiss, Esq. (Chairperson), Pearl D. Foster, M.D, and Hilda Ratner, M.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. MICHAEL P. McDERMOTT, Esq., Administrative Law Judge, served as the Administrative Officer. A hearing was held on April 20, 1994. The Department of Health appeared by Peter J. Millock, Esq., General Counsel, by Marcia E. Kaplan, Esq., Associate Counsel. The Respondent failed to appear. 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**

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,

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, Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b). A Copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

### **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 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. Harvey L. Dannis, M.D., the Respondent, was authorized to practice medicine in New York State on November 9, 1973 by the issuance of license number 118503 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. His registration expired on or before January 1, 1979 (Pet's Exs. 4 and 5).

2. On or about August 28, 1991, the Respondent was convicted after a trial by jury in the Municipal Court, Central Judicial District, County of Orange, State of California, of the following two counts:

a) Battery, in violation of Section 242 of the California Penal Code, a misdemeanor, in that on or about October 15, 1990, Respondent did willfully and unlawfully use force and violence upon the person of Thomas Dalley; and

b) Carrying a Concealed Firearm, a misdemeanor, in violation of Section 12025 of the California Penal Code, in that on or about October 29, 1990, Respondent did willfully and unlawfully carry concealed upon his person a pistol, revolver, and firearm, to wit, .22 Caliber 5

Short Derringer capable of being concealed upon the person without having license to carry such firearm, he not then and there being a sheriff, constable, marshal, policemen, member of the California Highway Patrol, and other duly appointed peace officer.

On or about September 26, 1991, the Respondent was sentenced to consecutive three year conditional sentences on the two counts. On the Battery count, the conditions were that Respondent serve 30 days in Orange County Jail, violate no law, and make restitution through the Victim Witness Program., On the concealed Firearm count, the conditions were that Respondent pay a fine of \$1,000.00 and \$1450.00 PA or serve 33 days in jail, violate no law, submit to search and seizure of his person and any vehicle and container by any peace or probation officer at any time or place, with or without a warrant, and that he not possess any handgun and the police agency would dispose of any weapon.

These acts, if committed within New York State, would constitute a crime under N.Y. Penal Code Sections 120.00(1) (Assault in the Third Degree) (McKinney 1987) and/or 265.01(1) (Criminal Possession of a Weapon in the Fourth Degree) (McKinney 1989 and Supp. 1994) (Pet's Exs. 6 and 9).

3. On or about January 22, 1990, the California Board of Medical Quality Assurance (California Board) issued a Decision, effective February 21, 1990, revoking Respondent's license, staying the revocation, and imposing a ten year probationary term with detailed conditions, including a 90 day actual suspension of Respondent's license, completion of an ethics course, community service, interviews with the California board's medical consultant, and compliance with all laws and with his criminal probation, upon finding the Respondent guilty of unprofessional conduct based upon his federal conviction as set forth below in the Third Specification of Charges. The California Board found Respondent guilty of unprofessional conduct under California law, as follows: having committed an act involving dishonesty or corruption substantially related to the qualifications, function, or duties of a physician or surgeon (Cal. Bus. & Prof. Code Sec. 2234); being convicted of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon (Cal.

Bus. & Prof. Code Sec. 2236); and having knowingly made or signed a document, directly or indirectly related to the practice of medicine, which falsely represents the existence or nonexistence of a state of facts. 9Cal. Bu. & Prof. Code Sec 2261). These acts, if committed within New York State, would constitute professional misconduct under N.Y. Educ. Law Sections 6530(2) (practicing the profession fraudulently) and/or 6530(21) (willfully making or filing a false report) (Pet's Exs. 7 and 9).

4. On or about September 14, 1987, the Respondent was convicted after a plea of guilty in the United States District Court for the Central District of California four counts:

a) Theft of Government Property (one count), a misdemeanor, in violation of 18 U.S.C. section 641, in that on or about September 20, 1985, Respondent knowingly and willfully converted to his own use money in a sum less than \$100, by claiming to have performed a medical service for a patient which he did not, in fact, perform; and

b) Knowingly and Willfully Making False Statements In Claims for compensation (three counts), misdemeanors, in violation of 18 U.S.C. 1920; in that on or about September 13, 1985 (one count) and on or about March 27, 1986 (two counts), Respondent made false statements in compensation claims under subchapter I of chapter 81 of title 5, in that he stated in Health Insurance Claim forms that he provided IM, Triggerpoint, and/or Talwin injections to two patients which he knew he had not provided.

On or about September 14, 1987, the Respondent was ordered to pay a \$32,000 fine and the court suspended sentence and placed Respondent on probation for four years with the following conditions: obey all rules and regulations of the Probation Office; pay the \$32,000 fine; comply with any B.M.Q.A. decision; pay \$98 restitution to the government ; and pay a special assessment fee of \$100 (Pet. Ex. 8).

## DETERMINATION OF THE HEARING COMMITTEE

### FIRST SPECIFICATION

(Having been convicted of an act constituting a crime

under the law of another jurisdiction)

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(a)(iii) (McKinney Supp. 1994) in that he had been found guilty of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State Law.

**THE FIRST SPECIFICATION IS SUSTAINED**

**SECOND SPECIFICATION**

(Having been found guilty of  
misconduct in another state)

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(b) (McKinney Supp. 1994) in that he had been found guilty of improper professional practice or professional misconduct by a duly authorized 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.

**THE SECOND SPECIFICATION IS SUSTAINED**

**THIRD SPECIFICATION**

(Having been convicted of an act  
constituting a crime under federal law)

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(a)(ii) (McKinney Supp. 1994) in that he has been found guilty of committing an act constituting a crime under federal law.

THE THIRD SPECIFICATION IS **SUSTAINED**

**DETERMINATION OF THE HEARING COMMITTEE**

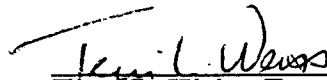
The Hearing Committee votes unanimously (3-0) that the Respondent's license to practice medicine in New York State should be **REVOKED**

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine in the State of New York is **REVOKED**;
2. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

Dated: Albany, New York  
May 3, 1994

  
\_\_\_\_\_  
Terri L. Weiss, Esq. (Chairperson)  
Pearl D. Foster, M.D.  
Hilda Ratner, M.D.

TO: Marcia E. Kaplan, Esq.  
Associate Counsel  
NYS Department of Health  
5 Penn Plaza - 6th Floor  
New York, New York 10001

Harvey L. Dannis, M.D.  
10831 Bronco Circle  
Santa Ana, CA 92705