



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

December 1, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kevin P. Donovan, Esq.
NYS Department of Health
Corning Tower-Room 2438
Empire State Plaza
Albany, New York 12237

Kenneth I. Freeman, Esq.
Freeman and Galie
507 Polk St. Suite 350
San Francisco, CA. 94102

Ronald P. Gruber, M.D.


RECEIVED
DEC 04 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

RE: In the Matter of Ronald P. Gruber, M.D.

Dear Mr. Donovan, Mr. Freeman and Dr. Gruber:

Enclosed please find the Determination and Order (No. 95-292) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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 (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 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
Empire State Plaza
Corning Tower, Room 2503
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.

Sincerely,

A black rectangular redaction box covers the handwritten signature of Tyrone T. Butler.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

IN THE MATTER
-OF-
RONALD P. GRUBER, M.D.

Respondent

DECISION
AND
ORDER
OF THE
HEARING
COMMITTEE
BPMC ORDER
NO. 95- 292

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated June 15, 1995 which were served upon **RONALD P. GRUBER, M.D.**, (hereinafter referred to as "Respondent"). **TERESA, S. BRIGGS, M.D., Ph.D.**, Chairperson, **DAVID T. LYON, M.D., Ph.D.** and **D. MARISA FINN**, 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. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on July 12, 1995 at the Cultural Education Center, Empire State Plaza, Albany, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner") appeared by **JERRY JASINSKI, ESQ.**, Acting General Counsel, by **KEVIN P. DONOVAN, ESQ.**, Associate Counsel, Bureau of Professional Medical Conduct. Respondent appeared at the hearing *pro se*. Later in this proceeding Respondent was represented by Freeman & Galie, **KENNETH L. FREEMAN, ESQ.**, of counsel. Evidence was received. Testimony was heard under oath. A transcript of these proceedings was made. There came a point in the proceeding when the parties believed that settlement would be possible. On October 3, 1995, the Administrative Law Judge was notified by the parties that they wished the Committee to come to a decision. Copies of the transcript were distributed to the Committee and, on November 6, 1995, the Committee deliberated.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This 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 prior professional disciplinary action or criminal conviction. The scope of this expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed by this state upon the licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to the New York State Education Law, Section 6530(9)(b) [having been found guilty of misconduct by another state] and 6530(9)(d) [disciplinary action taken by another state]. The charges in this proceeding arise from inappropriate prescribing of controlled substances. The allegations in this proceeding and the underlying events are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

FINDINGS OF FACT

The Committee adopts the factual statement set forth on pages one and two of the Statement of Charges (Appendix One) as its findings of fact and incorporates them herein.

**CONCLUSIONS
WITH REGARD TO
FACTUAL ALLEGATIONS**

Petitioner herein, has proven by a preponderance of the evidence that the State of California found Respondent guilty of misconduct. Petitioner also showed that the State of California revoked Respondent's license to practice medicine but permanently stayed the revocation in lieu of three years probation upon terms which included continuing medical education and an oral examination. Respondent will conclude his probation in California not earlier than 1997.

The facts which led to the discipline were extremely serious. Exhibit 3, which includes the findings of the California authorities, shows that Respondent was found guilty of professional dishonesty, improper administration of controlled substances to an addict, record falsification, gross negligence, repeated acts of negligence or incompetence, and fraud. Each of these findings would be seen as significant acts and would surely constitute misconduct in this State. The Committee finds that had the events described herein occurred in New York State, Respondent's license would have been revoked.

Nevertheless, the authorities in the state wherein Respondent practices have opted to allow Respondent to prove he can practice within accepted bounds. This Committee does not believe it has a greater duty than that held by California. Therefore, should Respondent desire to practice medicine in this State prior to the passage of five years after the completion of his probation in California, he will be subjected to the same penalty imposed by California. If Respondent satisfactorily fulfills his probation in California and remains in full compliance with the rules of California or any other jurisdiction for a period of five years from the end of the California probation, it is the opinion of this Committee that no further action would be necessary for Respondent to establish that he is not a threat to the people of the State of New York.

ORDER

WHEREFORE, Based upon the preceding facts and conclusions,

It is hereby **ORDERED** that:

1. The Factual allegations in the Statement of Charges are **SUSTAINED**

Furthermore, it is hereby **ORDERED** that;

2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are **SUSTAINED**;
Furthermore, it is hereby **ORDERED** that;
3. The license of Respondent to practice medicine in the State of New York is **REVOKED**;
Furthermore, it is hereby **ORDERED** that;
4. The said **REVOCAION** shall be **PERMANENTLY STAYED** upon fulfillment of the following conditions:
 - a. Respondent shall successfully fulfill all requirements of the State of California with regard to his present probationary status.
 - b. Respondent shall, for a period of five years commencing from the date of completion of the California probation, not be found guilty of professional misconduct in California or any jurisdiction in which he practices subsequent to the date of this Order
5. Should Respondent choose to practice in the State of New York prior to fulfilling either condition 4(a) or 4(b), he shall be placed on **PROBATION** according to the following terms:
 - a. Respondent shall establish he is in current compliance with all applicable requirements of California and any other jurisdiction he has practiced in.
 - b. Respondent shall not have been found guilty of medical misconduct since the date of this Order.
 - c. For a period of not less than three years from the date of commencement of practice in New York State, Respondent:
 1. Shall be required to submit reports, on not less than a quarterly basis, to the Director of the Board For Professional Medical Conduct, or his or her designee (hereinafter referred to collectively as "the Director"), in such form as is required by the Director showing that Respondent is prescribing controlled substances in an appropriate manner.
 2. Shall be subjected to a review of charts and records. The Director shall review a sufficient number of records to establish that Respondent is prescribing controlled substances according to accepted standards of medicine. The Director shall also review the charts and records to establish that Respondent is keeping all records as required by statute and regulation, and that all records are in acceptable form.
 3. Shall fulfil such other requirements as are established by the Director to carry out the intention of this Order.

Furthermore, it is hereby **ORDERED** that;

6. This order shall take effect **UPON RECEIPT** or **SEVEN (7) DAYS** after mailing of this order by Certified Mail.

Dated:
Albany, New York

Nov 28 1995



TERESA, S. BRIGGS, M.D., Ph.D., Chairperson

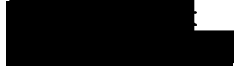
DAVID T. LYON, M.D., Ph.D.,
D. MARISA FINN

TO:

KEVIN P. DONOVAN, ESQ.
Associate Counsel
Bureau of Professional Medical Conduct
New York State Department of Health
Corning Tower Building
Empire State Plaza
Albany, N.Y. 12237

KENNETH I. FREEMAN, ESQ.
Freeman and Galie
507 Polk St. Suite 350
San Francisco, CA. 94102

Ronald P. Gruber, M.D.



APPENDIX ONE

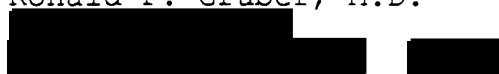
STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : NOTICE OF
OF : REFERRAL
RONALD P. GRUBER, M.D. : PROCEEDING

-----X

TO: Ronald P. Gruber, M.D.



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1995) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1995). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 12th day of July, 1995, at 10:00 in the forenoon of that day at Room E, Cultural Education Center, Concourse Level, New York State Museum, Empire State Plaza, Albany, New York 12237.

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

NEW YORK STATE DEPARTMENT OF HEALTH-1010
Petitioner's
Exhibit
7/11/95 MET

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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before July 3, 1995.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before July 3, 1995 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.

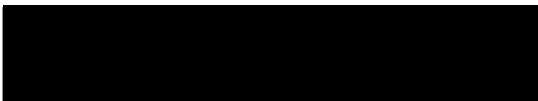
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in

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
June 15, 1995


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

Inquiries should be addressed to:

Kevin P. Donovan
Associate Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2429
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
RONALD P. GRUBER, M.D. : CHARGES

-----X

RONALD P. GRUBER, M.D., the Respondent, was authorized to practice medicine in New York State on November 21, 1968, by the issuance of license number 102742 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. By Order dated May 20, 1994, the Medical Board of California found that Respondent wrote prescriptions for Demerol, a controlled substance, for two persons with the intent that the Demerol would be used for Respondent's wife; that Respondent prescribed Demerol for three other patients who then gave the Demerol to Respondent, who gave the Demerol to Respondent's wife. The Board found that such conduct constituted acts involving dishonesty and prescribing inappropriately.

B. The conduct of which Respondent was found guilty in California would, if committed in New York State, constitute professional misconduct under the law of New York State, namely practicing the profession fraudulently within the meaning of New York Education Law §6530(2) (McKinney Supp. 1995)

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

GUILTY OF MISCONDUCT IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law §6530(9)(b) (McKinney Supp. 1995) in that he was 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, in that Respondent charges:

- 1. The facts of paragraphs A and B.

SECOND SPECIFICATION

DISCIPLINARY ACTION BY ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law §6530(9)(d) (McKinney Supp. 1995) in that he had disciplinary action taken against his license 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, in that Respondent charges:

- 2. The facts of paragraphs A and B.

DATED: *June 15*, 1995
Albany, New York



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