



# 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*

February 23, 1993

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ronald Tauber, D.O.  
310 East 49th Street  
Apartment 8F  
New York, New York 10017-1668

George Weinbaum, Esq.  
3 Barker Avenue  
White Plains, New York 10601

Roy Nemerson, 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 Ronald Tauber, D.O.**

Dear Dr. Tauber, Mr. Weinbaum and Mr. Nemerson:

Enclosed please find the Determination and Order (No. BPMC-93-28) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 (i), 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

-----X

IN THE MATTER :

OF :

RONALD TAUBER, D.O. :

-----X

HEARING  
COMMITTEE'S  
DETERMINATION  
AND

: ORDER NO. BPMC-93-28

THEA GRAVES PELLMAN, Chairperson, C. FRED PECKHAM, JR., D.O., and S. MOUCHLY SMALL, M.D., duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(10)(e) and 230(12) of the Public Health Law. ELLEN B. SIMON, ESQ., Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this determination.

STATEMENT OF CHARGES

The Statement of Charges essentially charges the Respondent with professional misconduct by reason of having violated the terms of probation imposed upon him by Order of the State Board for Professional Medical Conduct, dated August 11, 1992.

The charges are more specifically set forth in the October 30, 1992 letter, to the Respondent, from Kathleen M. Tanner, Director, Office of Professional Medical Conduct, a copy of which is attached to and made a part of this Determination and Order.

**SUMMARY OF PROCEEDINGS**

Notice of Violation of Probation  
Hearing dated: November 18, 1992

Statement of Charges dated: October 30, 1992

Hearing dates: December 3, 1992  
January 15, 1993

Deliberation date: January 28, 1993

Place of hearing: NYS Department of Health  
5 Penn Plaza  
New York, New York

Petitioner appeared by: Peter J. Millock, Esq.  
General Counsel  
NYS Department of Health  
BY: Roy Nemerson, Esq.  
Deputy Counsel

Respondent appeared by: George Weinbaum, Esq.  
3 Barker Avenue  
White Plains, New York

Motion: November 23, 1992  
Pre-hearing motion for an  
adjournment on behalf of the  
Respondent by George Weinbaum,  
Esq. - **DENIED**

**WITNESS**

For the Petitioner: Cheryl B. Ratner  
Supervising Medical Conduct  
Investigator/Probation  
Supervisor  
Office of Professional  
Medical Conduct

### FINDINGS OF FACT

Numbers in parentheses refer to transcript pages or exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited.

1. On or about June 18, 1992, Ronald M. Tauber, D.O. (henceforth "Respondent"), appeared before a duly designated Hearing Committee of the State Board for Professional Medical Conduct (henceforth "Referral Committee") in a Referral Proceeding brought pursuant to Public Health Law Section 230(10)(p). (Petitioner's Exhibit 16 [henceforth "P's 16, e.g.], pp. 18ff)

2. After hearing testimony and receiving other evidence, the Referral Committee found that Respondent was guilty of committing professional misconduct as charged in two specifications of misconduct. (P's 16, pp. 11-13)

3. The first specification of misconduct resulted from Respondent's having been convicted, in the State of Michigan, of two counts of second degree criminal conduct as a result of his molestation of a six-year-old girl in 1980. (P's 16, pp. 10-11; P's 17)

4. The second specification of misconduct resulted from the revocation of Respondent's license to practice medicine in the State of California, on or about June 9, 1991. The basis for the

California disciplinary action included, *inter alia*, the Michigan criminal conviction. (P's 16, p. 11; P's 18)

5. Upon finding Respondent guilty of misconduct, the Referral Committee unanimously determined that Respondent's license to practice medicine in the State of New York be revoked and, by a vote of 2-1, further determined that the revocation be stayed and that Respondent be subject to certain terms of probation. (P's 16)

6. The terms of probation imposed by the Referral Committee required, *inter alia*, that Respondent "shall not practice medicine until an acceptable monitoring physician is approved by the Office [of Professional Medical Conduct]" (term 8); that Respondent "shall limit patient contact to individuals 18 years of age or older...[and]...shall not allow individuals under 18 years of age in his office (except in the waiting room)" (term 6); that Respondent "shall practice only in a stable, group practice setting" (term 7); and that Respondent "shall continue in regular therapy sessions with a psychiatrist or Ph.D. psychologist..." (term 9). (P's 16)

7. In its determination, signed by John H. Morton, M.D., on August 11, 1982, the Referral Committee stated, "In the event that Respondent fails to fully comply with the terms of probation, the revocation of his medical license shall take effect" (P's 16, P. 15, lines 9-12). The Referral Committee further stated, in term 13 of its term of probation (P's 16, p. 25), "...upon receipt of evidence of non-compliance or any

other violation of the terms of probation, the stay of revocation shall terminate."

8. The Determination and Order of the Referral Committee was executed by the Referral Committee, by its Chair, John H. Morton, M.D., on August 11, 1992, and Respondent had knowledge of the terms of that Determination and Order on or before September 1, 1992. (P's 16, 19, 21, 22, 23; Transcript at pages [henceforth "T"] 84-101, 127, 129-130, 135)

9. Said Determination and Order was mailed to Respondent's Attorney of Record, George Weinbaum, via Certified Mail on or before August 20, 1992 (P's 16, pp. 6-8). Such Determination and Order was received by Mr. Weinbaum on or before August 20, 1992, and on August 20, 1992 a copy of that Determination and Order was mailed by Mr. Weinbaum's secretary, Michelle Gilbert, to Respondent. (Respondent's Exhibits A, B)

10. Respondent, on and after September 1, 1992, was aware of and understood the terms of probation and discussed, with Investigator Cheryl B. Ratner, of the Office of Professional Medical Conduct, the meaning of specific terms of probation, including practice monitoring guidelines, stable group practice setting, limiting patient contact, and continuing therapy. Respondent further professed to pursue compliance with such terms and requested reconsideration, by the Office of Professional Medical Conduct, of its interpretation of those terms. (P's 19, 22, 23; T: 85-101)



11. On September 20, 1992, Respondent acknowledged to Investigator Ratner, in writing, his familiarity with the terms of his probation, including a reference to "paragraph (8) of my terms of probation" in connection with a practice monitoring physician. (P's 22)

12. At no time on or prior to September 23, 1992 was an acceptable monitoring physician (probation term 8) approved by the Office of Professional Medical Conduct. (P's 16, 19, 21, 22; T: 95-97, 100-101)

13. Between and including September 2, 1992 and September 23, 1992, Respondent practiced medicine, as charged and specified in Kathleen Tanner's October 30, 1992 letter, with attachments, addressed to Respondent. (P's 16, 1-15, 28-29)

14. Between September 2, 1992 and September 23, 1992, Respondent treated at least 117 patients. (P's 1-15, 28-29)

15. Of the patients treated between September 2, 1992 and September 23, 1992, at least 46 were less than 18 years of age. (P's 1-15, 28-29)

#### CONCLUSIONS

1. Respondent had knowledge of and was therefore subject to the terms and limitations imposed on him by the Determination and Order of the Referral Committee beginning no later than September 1, 1992 and continuing to date.

2. Further, Respondent's letter of September 20, 1992 to Investigator Ratner refers to actual paragraph numbers from the

Determination and Order setting forth the terms of his probation, including, in connection with practice monitoring, a reference to paragraph 8. That specific paragraph number is nowhere identified in Kathleen Tanner's letter to Respondent of September 14, 1992; accordingly, Respondent had other knowledge before September 20, 1992 of specific terms of his probation.

3. On no fewer than 117 occasions between and including September 2, 1992 and September 23, 1992, Respondent violated the terms of probation imposed on him pursuant to said Determination and Order.

4. On all 117 of these occasions, Respondent was in violation of term 8 of the terms of probation.

5. On 46 of the 117 occasions, Respondent was additionally in violation of term 6 of the terms of probation.

6. In treating patients after actually receiving and understanding the limitations placed by the Referral Committee on his privilege to practice medicine in New York, Respondent's conduct was knowing, intentional, and willful.

#### **VOTE OF THE HEARING COMMITTEE AND DETERMINATION AS TO PENALTY**

In determining an appropriate penalty to impose upon this Respondent, this Committee has seriously considered the decision and penalties imposed upon Respondent by the Referral Committee which previously reviewed this matter. Their determination resulted in the revocation of Respondent's license and the subsequent stay of that revocation, subject to

Respondent's full compliance with the terms of probation set forth in the Referral Committee's Order. Respondent has clearly and willfully violated the terms of his probation.

This Committee has unanimously determined that the Respondent's license to practice medicine in the State of New York should be revoked.

**ORDER**

Based upon the forgoing, **IT IS HEREBY ORDERED THAT:**

1. Respondent's license to practice medicine in the State of New York is hereby **REVOKED**.

**DATED: West Hempstead, New York**  
**February 15, 1993**

  
**THEA GRAVES PELLMAN**  
**(Chairperson)**

**C. FRED PECKHAM, JR., D.O.**  
**S. MOUCHLY SMALL, M.D.**

APPENDIX I

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

Handwritten note in a box: Petitioner's Exhibit 16. For identification. 12/3/92 P.S.

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IN THE MATTER  
OF  
RONALD TAUBER, D.O.

: NOTICE OF  
VIOLATION  
: OF  
PROBATION  
: HEARING  
:

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TO: RONALD TAUBER, D.O.  
P.O. Box 420101  
Atlanta, GA 30342-0101

310 E. 49th St. Apt 8f  
New York, NY

PLEASE TAKE NOTICE:

In response to the request for a hearing pursuant to the provisions of N.Y. Pub. Health Law Sec. 230(19) (McKinney Supp. 1992), a violation of probation hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 3rd day of December, 1992 at 10:00 in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, NY 10001.

At the hearing, evidence will be received concerning the dispute of any facts forming the basis of the alleged violation of probation as set forth in the attached letter.

A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You may appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your

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ADDED  
11/27/92  
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behalf in order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Administrative Law Judge's Office, Empire State Plaza, Tower Building, 25th Floor, Albany, New York 12237, (518-473-1385), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

The committee shall make findings of fact, conclusions of law, and a determination. If the committee determines that you have violated probation, it shall impose an appropriate penalty as defined in N.Y. Public Health Law section 230-a (McKinney Supp. 1992).

DATED: New York, New York  
November 18, 1992



CHRIS STERN HYMAN  
Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be directed to: Roy Nemerson  
Deputy Counsel, B.P.M.C.  
Telephone No.: 212-613-2607



# STATE OF NEW YORK DEPARTMENT OF HEALTH

5 Penn Plaza, 6th Floor

New York, New York 10001

FAX 212-613-2611

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

Paula Wilson  
Executive Deputy Commissioner

October 30, 1992

Ronald Tauber, D.O.  
310 East 49th Street, Apt 8F  
New York, New York

Dear Dr. Tauber:

Please be advised that, as Director of the New York Office of Professional Medical Conduct, I have determined, pursuant to N.Y. Public Health Law Section 230(19) (McKinney Supp. 1992), that you may have violated the terms of probation imposed upon you by Order of the State Board for Professional Medical Conduct, dated August 11, 1992. The basis of the alleged violation of probation is that you failed to conform to the standards of the medical profession based on the following facts:

On or prior to September 1, 1992 you were served with an Order of the State Board for Professional Medical Conduct, imposing a sanction revoking your license to practice as a physician in the State of New York, staying that revocation and placing you on probation. A copy of that order is attached to this letter, marked as "Appendix A" and made a part hereof. Pursuant to the terms of probation imposed, you were prohibited from practicing medicine in New York State unless and until various conditions were met. Despite the fact that such conditions were not met, you continued to practice medicine until at least September 23, 1992, in the State of New York, diagnosing and/or treating in excess of one hundred patients, including but not limited to those patients identified in "Appendix B", attached hereto and made a part hereof, on the dates indicated in "Appendix B", at the location or locations identified in Appendix "B".

Please be advised that if you do not dispute the facts forming the basis of the alleged violation of probation as outlined above within twenty (20) days of the date of this letter, I shall submit this matter to a committee on professional conduct for its review and determination. If within twenty (20) days of the date of this letter, you do dispute any of the facts forming the basis of the alleged violations, you have the right and shall be afforded a hearing before a committee on professional medical conduct. You may be represented by counsel at that hearing. A

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stenographic record of that hearing shall be made. The committee shall receive evidence and take testimony relating to your alleged violations of probation and thereafter shall make findings of facts, conclusions of law and a determination.

Should the committee determine that you have violated probation, it shall impose an appropriate penalty, taking into account both the violation of probation and the prior adjudication of misconduct. The chairperson of the committee shall issue an order adopting the committee's decision. You may seek review of that order by the administrative review board for professional misconduct.

Because your ability to continue to practice medicine in this state may be in jeopardy, I recommended that you consult with an attorney. If you or your attorney wish to discuss this matter, you may call Roy Nemerson, Deputy Counsel, BPMC. at (212) 613-2607.

Very truly yours,

*Kathleen M. Tanner*  
(S14)

Kathleen M. Tanner  
Director  
Office of Professional  
Medical Conduct

KMT/ml

VIA ORDINARY AND CERTIFIED MAIL