



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

August 12, 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ronald M. Tauber, D.O.
15 Yale Drive
North Hill, New York 11030-4042

David W. Smith, Esq.
Assistant Counsel
NYS Department of Health
5 Penn Plaza, 6th Floor
New York, New York 10001

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

RE: In the Matter of Ronald M. Tauber, D.O.

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

Enclosed please find the Determination and Order (No. BPMC-92-64) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

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 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.

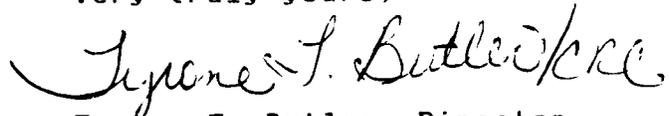
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in cursive script that reads "Tyrone T. Butler". The signature is written in black ink and is positioned above the typed name.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

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

-----X
IN THE MATTER : DETERMINATION
OF : AND
RONALD M. TAUBER, D.O. : ORDER
-----X ORDER NO. BPMC-92-64

A Notice of Hearing and Statement of Charges, both dated March 24, 1992, were served upon the Respondent, Ronald M. Tauber, D.O. **JOHN H. MORTON, M.D. (Chair), JANE C. McCONNELL, ESQ., and KARL R. PALEY, 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. **LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. A hearing was held on June 18, 1992. The Department of Health appeared by David W. Smith, Esq., Assistant Counsel. The Respondent appeared by George Weinbaum, Esq. 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, 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 Sections 6530(9)(a)(iii) and 6530(9)(b). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in 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. Respondent was authorized to practice medicine in New York State on September 20, 1974 by the issuance of license number 121987 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. (Dept. Ex. #2).

2. On September 3, 1982, in the Sixth Circuit Court for the County of Oakland, State of Michigan, Respondent was convicted of one count of first and two counts of second degree criminal sexual conduct (child molestation of a six-year old girl). He was sentenced to 12 to 15 years and 10 to 15 years, respectively.

Thereafter, in 1986, his conviction on first degree criminal sexual conduct was overturned and he was subsequently re-sentenced to 9 to 15 years on both counts of second degree sexual conduct, both sentences to run concurrently. He was paroled in January, 1990, and released from parole in August, 1991. (Dept. Ex. # 4(a) & 4(b), 7; Record as a Whole).

3. On June 9, 1991, the Board of Osteopathic Examiners of the State of California revoked Respondent's license to practice medicine in California on the following grounds:

(a) On June 20, 1979, the Department of Professional and Occupational Regulations, Board of Osteopathic Medical Examiners, State of Florida, suspended Respondent for a period of two years due to his failure to provide minimal standards of acceptable and prevailing osteopathic medical practice in his treatment of a patient during the performance of an abortion. (Dept. Ex. #7).

(b) The conviction of Respondent in the State of Michigan as described in Paragraph 2, above. (Dept. Ex. #7).

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Committee concluded that the Department has met its burden of proof. The preponderance of the evidence demonstrates that on September 3, 1982 Respondent was convicted of one count of first and two counts of second degree criminal sexual conduct.

The count of first degree criminal sexual conduct was subsequently overturned. Respondent was convicted of sexually molesting a six-year old girl. New York Penal Law Section 130.65 sets forth the crime of sexual abuse in the first degree. The statute defines sexual abuse in the first degree (a class D felony) as follows:

A person is guilty of sexual abuse in the first degree when he subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old.

The Hearing Committee unanimously concluded that Respondent was convicted of committing an act constituting a crime under the law of another jurisdiction (Michigan) which would have constituted a crime under New York Penal Law Section 130.65. Therefore, the Committee further concluded that Respondent committed professional misconduct within the meaning of Education Law §6530(9)(a)(iii), by virtue of this criminal conviction. As a result, the Hearing Committee sustained the first specification of misconduct alleged in the Statement of Charges. (Dept. Ex. #1).

The Hearing Committee further concluded that Respondent committed professional misconduct within the meaning of Education Law §6530(9)(b) by virtue of the decision of the Board of Osteopathic Examiners of the State of California. The California Board found Respondent guilty of professional misconduct 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. As a result, the Hearing Committee sustained the second specification of misconduct alleged in the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in the State of New York be revoked. By a vote of 2-1, the Committee further determined that the revocation of Respondent's medical license be stayed, and that he be placed on probation for an indefinite period. The complete terms of probation are contained in Appendix II, which is attached to this Determination and Order and incorporated herein. The Hearing Committee's determination as to the penalty to be imposed was reached after due consideration of the full spectrum of available penalties, including revocation, censure and reprimand, or the imposition of civil penalties of up to \$10,000 per specification of charges sustained.

Respondent was convicted of the serious crime of sexual molestation of a six-year old child. The Committee strongly felt that such a breach of Respondent's professional and moral responsibilities warrants the most severe sanction possible. Nevertheless, a majority of the members of the Hearing Committee were also persuaded that Respondent's criminal conduct was due to a psychological disorder. The members of the Hearing Committee gave credence to the opinions rendered by Respondent's therapist,

Gene G. Abel, M.D., as set forth in his letter dated January 8, 1992 (contained in Resp. Ex. A). Dr. Abel noted that Respondent had successfully undergone a rigorous course of inpatient and on-going outpatient therapy. He further expressed the opinion that Respondent's continued practice of medicine would not present an unacceptable risk to the public, provided that certain conditions were met. His recommended conditions are:

1. Respondent must limit patient contact to individuals 18 years of age or older;
2. Respondent cannot allow individuals under 18 in his office (except in the waiting room);
3. Respondent must practice with other physicians, not solo;
4. Respondent must continue in regular therapy sessions with a psychiatrist or Ph.D psychologist having more than five years experience treating individuals who have carried out inappropriate touching of children. He must assure that reports of this continuing therapy are sent to supervisors or licensing boards as they request, and
5. Respondent must undergo yearly complete reassessments, including psychophysiologic assessment, with appropriate reporting of findings to his therapist.

Dr. Abel's recommended conditions of practice are incorporated, with appropriate modifications, in the terms of probation contained in Appendix II.

The Hearing Committee also gave credence to Respondent's testimony, in which he fully accepted responsibility for his conduct and spoke convincingly of his recognition of the need for ongoing therapy for his condition, as well as a willingness to continue such treatment indefinitely. The Committee is also

cognizant of the fact that Respondent was incarcerated for more than seven years, as punishment for his crime.

The Hearing Committee believes that an essential element in maintaining a low risk to the public is that Respondent's practice be limited to group practice in a stable location. He must not practice in locum tenens positions. The Hearing Committee was satisfied that Respondent's continued practice of the profession of medicine would present an acceptably low risk to the public, provided he complies with all terms of probation. In the event that Respondent fails to fully comply with the terms of probation, the revocation of his medical license shall take effect.

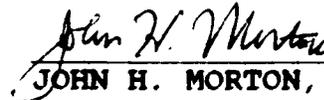
ORDER

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

1. The First and Second Specifications of professional misconduct contained within the Statement of Charges (Dept. Ex. #1) are **SUSTAINED**, and
2. Respondent's license to practice medicine in the State of New York is hereby **REVOKED**. The revocation of Respondent's license shall be stayed, and Respondent is hereby placed on probation subject to the terms of probation contained in Appendix II, which is attached to and incorporated into this Determination

and Order.

DATED: Albany, New York
August 11, 1992


JOHN H. MORTON, M.D. (Chair)

Karl R. Paley, M.D.
Jane C. McConnell, Esq.

TO: Ronald M. Tauber, D.O.
P.O. Box 420101
Atlanta, Georgia 30342-0101

David W. Smith, Esq.
Assistant Counsel
New York State Department of Health
5 Penn Plaza, 6th Floor
New York, New York 10001

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

EX 1

APPENDIX I

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

-----X
: IN THE MATTER :
: OF :
: RONALD M. TAUBER, ^{D.O.} ~~M.D.~~ :
:-----X

NOTICE OF
REFERRAL
PROCEEDING

*credited 4/15/92
fjs*

*credited 4/15/92
fjs*

TO: RONALD M. TAUBER, ^{D.O.} ~~M.D.~~
P.O. Box 420101
Atlanta, Georgia 30342-0101

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. 1992) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 23rd day of April, 1992 at 11 o'clock in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

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.

PLAINTIFF'S
DEFENDANT'S
COMPANY'S
DEPARTMENT'S
PETITIONER'S
RESPONDENT'S
DATE 6/18/92
STATE, INCLUDING SERVICE, INC.

EXHIBIT 1

for identification
in evidence

REPORTER ll

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 Larry Storch, Administrative Law Judge, New York State Department of Health, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, as well as the Department of Health attorney indicated below, on or before April 13, 1992.

You may file a written answer, brief, and affidavits with the Committee. Seven copies of all papers you wish to submit must be filed with Judge Storch at the address indicated above on or before April 13, 1992 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 Judge Storch 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: New York, New York

3/24/92

Chris Stern Hyman / CSH

Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

David W. Smith
Assistant Counsel
212-613-2617

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

-----X

IN THE MATTER : STATEMENT
OF : OF
RONALD M. TAUBER, ^{D.O.}~~M.D.~~ : CHARGES

-----X

*amended disk
JLS*

*amended disk
JLS*

^{D.O.}
RONALD M. TAUBER, ~~M.D.~~; the Respondent, was authorized to practice medicine in New York State on September 20, 1974 by the issuance of license number 121987 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FIRST SPECIFICATION

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law, Section 6530 (9) (a) (iii) (McKinney Supp. 1992), by having been convicted of committing an act constituting a crime under the law of another jurisdiction which, if committed within New York State, would have constituted a crime under New York State law, specifically Section 130.65 of the New York Penal Law:

On September 3, 1982, in the Sixth Circuit Court for the County of Oakland, State of Michigan, Respondent was convicted of one count of first and two counts of second degree, criminal sexual conduct (child

molestation of a 6-year old girl). He was sentenced to 12 to 15 years and 10 to 15 years respectively. Thereafter, in 1986, his conviction on first degree criminal sexual conduct was overturned and he was subsequently re-sentenced to 9 to 15 years on both counts of second degree criminal sexual conduct, both sentences to run concurrently. He was paroled in January, 1990, and released from parole in August, 1991.

SECOND SPECIFICATION

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law, Section 6530 (9) (b) (McKinney Supp., 1992), by having been found guilty of 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, specifically Section 6530 (9) (a) (iii) of the N.Y. Educ. Law and Section 130.65 of the New York Penal Law:

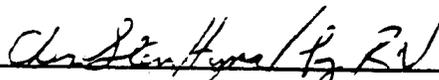
On June 9, 1991, the Board of Osteopathic Examiners of the State of California, revoked the license of Respondent to practice medicine in that state because:

a) On June 20, 1979, the Department of Professional and Occupational Regulations', Board of Osteopathic Medical Examiners, State of Florida, suspended Respondent for a period of two years because of substandard medicine practiced by Respondent during an abortion which caused the death of the mother; and

b) The conviction of Respondent in the State of Michigan as described above, of second degree criminal sexual conduct in the molestation of a 6-year-old girl.

DATED: New York, New York

3/24/92



Chris Stern Hyman
Counsel
Bureau of Professional Medical
Conduct

APPENDIX II
TERMS OF PROBATION

1. Dr. Tauber 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 imposed by law and by his profession.

2. Dr. Tauber shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.

3. Dr. Tauber shall submit prompt written notification to the Board addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237, regarding any change in employment, practice, residence or telephone number, within or without New York State.

4. In the event that Dr. Tauber leaves New York to reside or practice outside the State, Dr. Tauber shall notify the Director of the Office of Professional Medical Conduct in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.

5. Dr. Tauber shall have quarterly meetings with an employee or designee of the Office of Professional Medical Conduct during the period of probation. During these quarterly meetings Dr. Tauber's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.

6. Dr. Tauber shall limit patient contact to individuals 18 years of age or older. He shall not allow individuals under 18 years of age in his office (except in the waiting room).

7. Dr. Tauber shall practice only in a stable, group practice setting. He shall not practice in locum tenens positions.

8. Dr. Tauber shall have quarterly meetings with a monitoring physician who shall review Dr. Tauber's practice. This monitoring physician shall randomly review selected medical records and evaluate whether Dr. Tauber's medical care comports with generally accepted standards of medical practice. This

monitoring physician shall be selected by Dr. Tauber and is subject to the approval of the Director of the Office of Professional Medical Conduct. Dr. Tauber shall not practice medicine until an acceptable monitoring physician is approved by the Office.

9. Dr. Tauber shall continue in regular therapy sessions with a psychiatrist or Ph.D. psychologist having more than five years experience treating individuals who have carried out inappropriate touching of children. This therapist shall be selected by Dr. Tauber and is subject to the approval of the director of the Office of Professional medical conduct. The therapist shall submit quarterly reports to the Director of the Office of Professional medical conduct certifying compliance with treatment by Dr. Tauber and describing in detail any failure to comply. The therapist shall report to the Office of Professional Medical conduct immediately any discontinuation treatment by Dr. Tauber.

10. Dr. Tauber shall undergo yearly complete reassessments, including psychophysiologic assessment, with appropriate follow-up by his therapist.

11. Dr. Tauber shall submit quarterly declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not the specifics of such non-compliance. These declarations shall be sent to the Director of the Office of Professional medical Conduct at the address indicated above.

12. Dr. Tauber shall submit written proof to the Director of the Office of Professional Medical Conduct at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine with the New York State Education Department. If Dr. Tauber elects not to practice medicine in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

13. If there is full compliance with every term set forth herein, Dr. Tauber may practice as a physician in New York in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance or any other violation of the terms of probation, the stay of revocation shall terminate. In addition, a violation of probation proceeding and/or such other proceedings as may be

warranted, may be initiated against Dr. Tauber pursuant to New York Public Health Law §230(19) or any other applicable laws.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]