



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

C. Maynard Guest, M.D.
Executive Secretary

December 30, 1992

Mr. Robert Bentley
Director
Division of Professional Licensing Services
New York State Education Department
Empire State Plaza
Cultural Education Center
Albany, New York 12230

RE: License No. 117479

Effective Date: 12/30/92

Dear Mr. Bentley:

Enclosed please find Order #BPMC 92-118 of the New York State Board for Professional Medical Conduct concerning Dr. Jacqueline Ginchereau.

Please be advised that this determination by the hearing committee may be appealed to the Administrative Review Board by either side within fourteen (14) days of the service of this order. We will notify you if any such appeal is taken.

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Daniel Kelleher



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

December 23, 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Roy Nemerson, Esq.
Deputy Counsel
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

Alan Azzara, Esq.
299 Old Country Road
Mineola, New York 11501

Jacqueline Ginchereau, M.D.
15 Forest Avenue
Glen Cove, New York 11542

RE: Matter of Jacqueline Ginchereau, M.D.

Dear Mr. Nemerson, Mr. Azzara and Dr. Ginchereau:

Enclosed please find the Determination and Order (No. BPMC-92-118) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 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 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, 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
: :
JACQUELINE GINCHEREAU, M.D. : ORDER
-----X

ORDER NO. BPMC-92-118

A Notice of Hearing, dated May 20, 1992, and a Statement of Charges, dated April 9, 1992, were served upon the Respondent, Jacqueline Ginchereau, M.D. **JANE C. McCONNELL (Chair)**, **ARTHUR H. DUBE, M.D.**, and **RUFUS A. NICHOLS, 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 September 10, 1992. The Department of Health appeared by Roy Nemerson, Esq., Deputy Counsel. The Respondent appeared by Alan Azzara, 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 Section 6530(9)(a)(i). 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. Jacqueline Ginchereau, M.D. (hereinafter "Respondent") was authorized to practice medicine in New York State on September 6, 1973 by the issuance of license number 117479 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 through December 31, 1992 at 150 Forest Avenue, Glen Cove, New York 11542. (Dept. Ex. #1).

2. On June 16, 1988, Respondent entered a guilty plea to a charge of offering a false instrument for filing in the first degree, in violation of New York Penal Law Section 175.35 (a Class E felony). (Dept. Ex. #1).

3. Respondent admitted that between July 7, 1987 and March 7, 1988, she submitted claim forms under the New York State Medical Assistance Program (Title XIX) which falsely represented the medical services rendered to patients. (Dept. Ex. #1).

4. On July 28, 1988, Respondent was sentenced to a conditional discharge and a fine of \$2,500.00. (Dept. Ex. #1).

5. As a result of this criminal conviction, Respondent resigned from the medical staff at Glen Cove Hospital and was barred from participating in the Medicare and Medicaid programs. (8).

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 Hearing Committee concluded that the Department has met its burden of proof. The preponderance of the evidence demonstrates that Respondent was found guilty of committing a crime under New York State law. She pled guilty to a violation of New York Penal Law Section 175.35 (a Class E felony). Therefore, the Hearing Committee sustained the First Specification of misconduct contained 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 should receive a censure and reprimand for her misconduct. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The Hearing Committee observed Respondent's demeanor during her testimony at the hearing. It was readily apparent to the Committee that Respondent was very remorseful regarding her criminal conduct. She testified that she had been humiliated and embarrassed by the criminal conviction. (Tr., p. 9). Respondent further indicated that as a result of her felony conviction, she had substantially limited her private practice and was working part-time at a state hospital. (Tr., p. 8). The Hearing Committee gave credence to Respondent's testimony, which was not challenged by the Department.

The Hearing Committee also gave credence to a representation made by Respondent's counsel, regarding the \$2,500.00 fine paid by Respondent as part of her plea agreement. Counsel indicated that this amount represented triple the amount of money illegally obtained as a result of the false Medicaid claims filed by Respondent. (See, Tr., pp. 13-14). The Hearing Committee

TO: Roy Nemerson, Esq.
Deputy Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Alan Azzara, Esq.
200 Old Country Road
Mineola, New York 11501

Jacqueline Ginchereau, M.D.
15 Forest Avenue
Glen Cove, New York 11542

APPENDIX I

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: JACQUELINE GINCEREAU, M.D. : PROCEEDING
: ^ :
-----X

TO: JACQUELINE GINCEREAU, M.D.
15 Forest Avenue
Glen Cove, NY 11542

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 18th day of June, 1992 at 2:15 o'clock in the afternoon 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.

Department's
Exhibit 1
in evidence
9/10/92 D.F.

file amended
9/10/92

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 June 8, 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 June 8, 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.

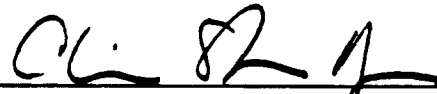
The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

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

May 20, 1992



Chris Stern Hyman, Counsel
Bureau of Professional Medical
Conduct

Inquiries should be addressed to:
Jean Bresler
Associate Counsel
(212) 613-2601

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

-----X
IN THE MATTER : STATEMENT
OF : OF
JACQUELINE GINCEREAU, M.D. : CHARGES
-----X

js amended
3/10/92

JACQUELINE GINCEREAU, M.D., the Respondent, was authorized to practice medicine in New York State on September 6, 1973 by the issuance of license number 117479 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 through December 31, 1992 at 150 Forest Avenue, Glen Cove, New York 11542.

FIRST SPECIFICATION

- A. The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530 (9)(a)(i) (McKinney Supp. 1992) in that she has been found guilty of committing a crime under New York State law.

On June 16, 1988 the Respondent plead guilty to offering a false instrument for filing in the first degree in violation of N.Y. Penal Law Section 175.35 (a Class E Felony). Between July

7, 1987 and March 7, 1988 Respondent submitted claim forms under the New York State Medical Assistance Program (Title XIX), which falsely represented what medical services she rendered to patients.

Respondent plead guilty on June 16, 1988 and was sentenced on July 28, 1988 to a conditional discharge and a fine of \$2,500.00.

DATED: New York, New York

April 9, 1992



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct