



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

June 29, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

E. Marta Sachey, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Empire State Plaza
Corning Tower - Room 2429
Albany, New York 12237

Taalib-Din Iqbal Muhammad, P.A.
184-32 Galway Avenue
St. Albans, New York 11412-1918

Effective Date: 7/6/94

RE: In the Matter of Taalib-Din Iqbal Muhammad, P.A.

Dear Ms. Sachey and Mr. Muhammad:

Enclosed please find the Determination and Order (No. BPMC-94-99) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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), "(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.

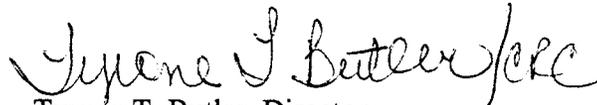
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
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,


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 :
TAALIB-DIN IQBAL MUHAMMAD, P.A. : AND
: ORDER
-----X NO. BPMC-94-99

A Notice of Hearing and Statement of Charges, both dated April 13, 1994, were served upon the Respondent, Taalib-Din Iqbal Muhammad, P.A. DENISE M. BOLAN, R.P.A. (Chair), THERESE G. LYNCH, M.D., and WALTER T. GILSDORF, 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. The Department of Health appeared by E. Marta Sachey, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. 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.

PROCEDURAL HISTORY

Date of Notice of
Hearing and Statement of Charges: April 13, 1994
Answer to Statement of Charges: None
Pre-Hearing Conference: None
Dates of Hearings: June 15, 1994
Received Petitioner's Proposed

Findings of Fact, Conclusions of Law and Recommendation: None submitted

Received Respondent's Proposed Findings of Fact, Conclusions of Law and Recommendation: None submitted

Witnesses for Department of Health: None

Witnesses for Respondent: None

Deliberations Held: June 15, 1994

STATEMENT OF CASE

The Department has charged Respondent with the fraudulent practice of medicine. More specifically, the Department has charged Respondent with conspiring to commit Medicaid fraud in violation of Title 42, United States Code, Section 1320a-7b, mail fraud in violation of Title 18, United States Code, Section 1341, and wire fraud in violation of Title 18, United States Code, Section 1343. A copy of the Notice of Hearing 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. Taalib-Din Iqbal Muhammad, P.A. (hereinafter, "Respondent"), was authorized to practice as a physician

assistant in New York State by the issuance of registration number 002291 by the New York State Education Department.

Respondent is currently registered with the New York State Education Department to practice as a physician assistant for the period January 1, 1993 through December 31, 1995 from 184-32 Galway Avenue, St. Albans, New York 11412-1918. (Pet. Ex. #4).

2. Respondent, from approximately January 1990 through approximately May 1991, participated in a scheme, with others, to operate medical clinics for the purpose of obtaining payments directly and indirectly from the Medicaid System operating in New York City by submitting and causing others to submit bills to Medicaid for medical services, drug prescriptions, and laboratory tests which he knew to be, and which were, in fact, medically unnecessary. (Pet. Ex. #5).

3. Respondent, from approximately January 1990 through May 1991, willfully and knowingly devised and/or participated in a scheme to obtain money and property by means of false and fraudulent pretenses and representations. Specifically, Respondent wrote drug prescriptions and ordered medical tests from a private laboratory which tests he knew to be, and were in fact, medically unnecessary, for the purpose of obtaining payments from the Medicaid System operating in New York City. Further, Respondent, for the purpose of effecting such scheme, mailed and caused to be mailed orders for such laboratory tests to Clin Path, North Bloomfield, New Jersey and the results from such laboratory tests to a Deborah Williams, M.D., New York, New York. (Pet. Ex. #5).

4. On February 18, 1992, Respondent entered a guilty plea to a two count information charging Respondent with conspiring to commit Medicaid fraud in violation of Title 42, United States Code, Section 1320a-7b, mail fraud in violation of Title 18, United States Code, Section 1341, and wire fraud in violation of Title 18, United States Code, Section 1343. (Pet. Ex. #5).

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 following Factual Allegations should be sustained. The citations in parentheses refer to the Findings of Fact which support each Factual Allegation:

Factual Allegations A and B: (1 - 4).

DISCUSSION

Respondent is charged with one specification alleging professional misconduct within the meaning of Education Law §6530. This statute sets forth numerous forms of conduct which constitute professional misconduct, but does not provide definitions of the various types of misconduct. During the course of its deliberations on these charges, the Hearing Committee consulted a memorandum prepared by Peter J. Millock, Esq., General Counsel for the Department of Health. This

document, entitled "Definitions of Professional Misconduct Under the New York Education Law", sets forth suggested definitions for gross negligence, negligence, gross incompetence, incompetence, and the fraudulent practice of medicine.

The following definition was utilized by the Hearing Committee during its deliberations:

Fraudulent Practice of Medicine is an intentional misrepresentation or concealment of a known fact. An individual's knowledge that he/she is making a misrepresentation or concealing a known fact with the intention to mislead may properly be inferred from certain facts.

Using the above-referenced definition as a framework for its deliberations, the Hearing Committee unanimously concluded, by a preponderance of the evidence, that the Department has sustained its burden of proof. The preponderance of the evidence indicates that Respondent was convicted, on a plea of guilty, to conspiring to commit Medicaid fraud, mail fraud, and wire fraud, in violation of Federal Law. By his guilty plea, Respondent admitted that he willfully and knowingly devised and/or participated in a scheme to write prescriptions and order medical tests which were unnecessary, in order to unlawfully obtain payments from the Medicaid system.

The Hearing Committee unanimously concluded that Respondent's conduct constituted the fraudulent practice of the profession, as defined above. As a result, the Committee voted to sustain the Specification of professional misconduct.

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 as a physician in New York State should be revoked. In addition, the Committee determined that a fine in the amount of \$10,000 should also be imposed. 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.

Respondent was convicted of intentionally conspiring to defraud the Medicaid program. His actions constitute a serious breach of the public trust which is accorded members of his profession, and warrant a significant sanction. Respondent failed to appear at the hearing, and presented neither a defense of his conduct nor any evidence which might mitigate the sanction to be imposed. Under the totality of the circumstances, the Hearing Committee unanimously concluded that revocation is the appropriate sanction. Further, insofar as Respondent's conduct appeared to be motivated by greed, the Committee determined that a monetary penalty in the amount of \$10,000 (the maximum permitted under the statute) should also be imposed.

ORDER

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

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is

SUSTAINED;

2. Respondent's registration to practice as a physician assistant in New York State be and hereby is **REVOKED;**

3. A fine in the amount of **TEN THOUSAND DOLLARS (\$10,000.00)** be and hereby is assessed against Respondent.

Payment of the aforesaid sum shall be made to the Bureau of Accounts Management, New York State Department of Health, Erastus Corning Tower Building, Room 1245, Empire State Plaza, Albany, New York 12237 within thirty (30) days of the effective date of this Order.

4. Any fine not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees, referral to the New York State Department of Taxation and Finance for collection, and non-renewal of permits or licenses (Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32).

DATED: Albany, New York
June 26, 1994

Denise M. Bolan, RPA
DENISE M. BOLAN, R.P.A. (CHAIR)

THERESE G. LYNCH, M.D.
WALTER T. GILSDORF, M.D.

TO: E. Marta Sachey, Esq.
Associate Counsel
New York State Department of Health
Room 2429 - Tower Building
Albany, New York 12237

Taalib-Din Iqbal Muhammad, P.A.
184-32 Galway Avenue
St. Albans, New York 11412-1918

APPENDIX I

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

-----X
: IN THE MATTER :
: OF : NOTICE
: OF :
: TAALIB-DIN IQBAL MUHAMMAD, P.A. : HEARING
: :
-----X

TO: TAALIB-DIN IQBAL MUHAMMAD, P.A.
184-32 Galway Avenue
St. Albans. New York 11412-1918

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 15th day of June, 1994, at 10:00 a.m. in the forenoon of that day at the Empire State Plaza, Corning Tower Building, 22nd Floor, Conference Room 2262, Albany, New York 12237 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You

EXHIBIT
Petitioners
6/15/94 JB

shall 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 behalf in order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

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.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1994), you may file an answer to the Statement of Charges not less than ten days prior to the date of the hearing. If you wish to raise an affirmative defense, however, N.Y. Admin. Code tit. 10, Section 51.5(c) requires that an answer be filed, but allows the filing of such an answer until three days prior to the date of the hearing. Any answer shall

be forwarded to the attorney for the Department of Health whose name appears 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.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO THE OTHER SANCTIONS SET OUT IN
NEW YORK PUBLIC HEALTH LAW SECTION 230-a
(McKinney Supp. 1994). YOU ARE URGED TO
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS
MATTER.

DATED: Albany, New York

April 13 , 1994



PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to: E. Marta Sachey
Associate Counsel
Bureau of Professional
Medical Conduct
Corning Tower, Room 2429
Albany, New York 12237
Telephone No.: 518-473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
TAALIB-DIN IQBAL MUHAMMAD, P.A. : CHARGES

-----X

TAALIB-DIN IQBAL MUHAMMAD, P.A., the Respondent, was authorized to practice as a physician assistant in New York State on September 26, 1983 by the issuance of registration number 002291 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice as a physician assistant for the period January 1, 1993 through December 31, 1995 from 184-32 Galway Avenue, St. Albans, New York 11412-1918.

FACTUAL ALLEGATIONS

A. Respondent, from approximately January 1990 thorough approximately May 1991, participated in a scheme, with others, to operate medical clinics for the purpose of obtaining payments directly and indirectly from the Medicaid System operating in New York City by submitting and causing others to submit bills to Medicaid for medical services, drug prescriptions, and

laboratory tests which he knew to be, and which were, in fact medically unnecessary.

B. Respondent, from approximately January 1990 through May 1991, willfully and knowingly devised and/or participated in a scheme to obtain money and property by means of false and fraudulent pretenses and representations. Specifically, Respondent wrote drug prescriptions and ordered medical tests from a private laboratory which tests he knew to be, and were in fact, medically unnecessary, for the purpose of obtaining payments from the Medicaid System operating in New York City. Further, Respondent, for the purpose of effecting such scheme, mailed and caused to be mailed orders for such laboratory tests to Clin Path, North Bloomfield, New Jersey and the results from such laboratory tests to a Deborah Williams, M.D., New York, New York.

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(2) (McKinney Supp. 1994) by reason of his practicing the profession fraudulently, in that Petitioner charges:

1. The facts in Paragraph A and/or Paragraph B.

DATED: Albany, New York

April 13, 1994

Peter D. Van Buren

PETER D. VAN BUREN
Associate Attorney
Bureau of Professional Medical
Conduct