



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

May 11, 1990

David H. Johe, Physician  
P.O. Box 19  
Bradford, Pennsylvania 16701

Re: License No. 150266

Dear Dr. Johe:

Enclosed please find Commissioner's Order No. 10676. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations  
By:

MOIRA A. DORAN  
Supervisor

DJK/MAH/er  
Enclosures

CERTIFIED MAIL- RRR

cc: William P. Weichler, Esq.  
319 West 8th Street  
Erie, Pa. 16502



# The University of the State of New York

IN THE MATTER

OF

DAVID H. JOHE  
(Physician)

DUPLICATE  
ORIGINAL  
VOTE AND ORDER  
NO. 10676

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Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 10676, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (April 27, 1990): That the record herein be accepted, that the findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed rendered by the Regents Review Committee in the matter of DAVID H. JOHE, respondent, be accepted; that respondent is guilty of the charges by a preponderance of the evidence; that respondent's license to practice as a physician in the State of New York be subjected to no further action upon the specifications of the charges of which respondent has been found guilty; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

**ORDERED** that this order shall take effect as of the date of

DAVID H. JOHE (10676)

the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol, Commissioner of Education of the State of New York, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this <sup>4<sup>th</sup></sup> day of

*May* 1990.

*Thomas Sobol*  
Commissioner of Education

ORDER OF THE COMMISSIONER OF  
EDUCATION OF THE STATE OF NEW YORK

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DAVID H. JOHE

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CALENDAR NO. 10676



# The University of the State of New York

IN THE MATTER  
of the  
Disciplinary Proceeding  
against  
DAVID H. JOHE

No. 10676

who is currently licensed to practice  
as a physician in the State of New York.

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## REPORT OF THE REGENTS REVIEW COMMITTEE

DAVID H. JOHE, hereinafter referred to as respondent, was given due notice of this proceeding and informed that he could appear and be represented by an attorney.

On February 28, 1990, respondent appeared before us in person and was represented by his attorney, William P. Weichler, Esq. David A. Dietrich, Esq., represented the Department of Health.

Petitioner's recommendation as to the penalty to be imposed, should respondent be found guilty, was that respondent's license to practice as a physician in the State of New York be suspended for five years, said suspension be stayed, and respondent be placed on probation for five years.

DAVID H. JOHE (10676)

Respondent's recommendation as to the penalty to be imposed, should respondent be found guilty, was no sanction, suspension, or probation.

We have reviewed the record in this matter; and our unanimous findings of fact, determination, and recommendation follow:

**FINDINGS OF FACT**

1. Respondent was licensed to practice as a physician in this State by the New York State Education Department.
2. On October 30, 1988, after a jury trial in the Court of Common Pleas of McKean County, Pennsylvania, a verdict was rendered in which respondent was convicted of the crimes of both Simple Assault pursuant to 18 PA. CONS. STAT. §2701 (first specification) and Defiant Trespass pursuant to 18 PA. CONS. STAT. §3503(b) (second specification).
3. The acts constituting Simple Assault in Pennsylvania would, if committed by respondent in New York State, have constituted the crime under New York law of Assault in the Third Degree pursuant to Penal Law §120.00, as set forth in the statement of charges and the record herein.
4. The acts constituting Defiant Trespass in Pennsylvania would, if committed by respondent in New York State, have constituted the crime under New York law of Criminal Trespass in the

DAVID H. JOHE (10676)

second degree pursuant to Penal Law §140.15, as set forth in the statement of charges and the record herein.

**DETERMINATION AS TO GUILT**

The charges contained in the statement of charges, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "A", have been proven by a preponderance of the evidence and respondent is guilty thereof.

**RECOMMENDATION AS TO THE  
PENALTY TO BE IMPOSED**

Based on respondent's misconduct, we recommend that respondent's license to practice as a physician in the State of New York be subjected to no further action upon the specifications of the charges of which respondent has been found guilty. In arriving at our recommendation, we have considered, among other things, the tragic personal events arising out of a domestic dispute apart from respondent's medical practice, the letters respondent has submitted as to his reputation for professional competence, petitioner's reference to respondent as a very good technical surgeon, respondent's treatment subsequent to his sentencing, the probation already imposed in the Pennsylvania criminal process, and respondent's representation to us that he will be taking intensive continuing medical education courses in orthopedics. We note that Pennsylvania, the state where the convictions were entered, chose not to take any prosecutorial action regarding respondent's professional license.

DAVID H. JOHE (10676)

Respectfully submitted,

J. EDWARD MEYER

MELINDA AIKINS BASS

GEORGE POSTEL

  
Chairperson

Dated: March 30, 1990

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

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IN THE MATTER : STATEMENT  
OF : OF  
DAVID H. JOHE, M.D. : CHARGES

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The State Board for Professional Medical Conduct, upon information and belief, charges and alleges as follows:

1. DAVID H. JOHE, M.D., hereinafter referred to as the Respondent, was authorized to engage in the practice of medicine in the State of New York on June 11, 1982 by the issuance of license number 150266 by the New York State Education Department.
2. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1988 through December 31, 1991 from P.O. Box 19, Bradford, PA 16701.
3. The Respondent is charged with professional misconduct within the purview of N.Y. Educ. Law §6509 McKinney 1985) as set forth in the attached Specifications.

FIRST AND SECOND SPECIFICATIONS

4. The Respondent is charged with professional misconduct, within the meaning of N.Y. Educ. Law §6509(5)(a)(iii) (McKinney 1985), in that he was convicted of 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:

On or about October 30, 1988, after a jury trial in the Court of Common Pleas of McKean County, Pennsylvania, the Respondent was convicted of Simple Assault (18 Pa. C.S.A. §2701; second-degree misdemeanor) and Defiant Trespass (18 Pa. C.S.A. §3503[b]; third-degree misdemeanor).

The Respondent was sentenced to a total period of probation of twenty-three and one-half (23 1/2) months, ordered to surrender his passport and directed to avoid contact with the crime victim.

The acts constituting Simple Assault in Pennsylvania would, if committed in New York State, constitute a violation of Penal Law §120.00 (McKinney 1975) [Assault in the Third Degree; third-degree misdemeanor].

The acts constituting Defiant Trespass in Pennsylvania would, if committed in New York State,

constitute a violation of Penal Law §140.15 (McKinney 1975) [Criminal trespass in the second degree; class A misdemeanor] or Penal Law §140.10 (McKinney Supp. 1989) [Criminal trespass in the third degree; class B misdemeanor].

DATED: Albany, New York  
January 17, 1990



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

**REPORT OF THE  
REGENTS REVIEW COMMITTEE**

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**DAVID H. JOHE**

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**CALENDAR NO. 10676**