

THE STATE EDUCATION DEPARTMENT THE UNIVERSITY OF THE STATE OF NEW YORK ALBANY, N.Y. 12214

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

Barry Ray Buffman, Physician
161-41 Sirius Mine Lane
Sonora, California 95370

NOVEMBER 14, 1997

630 Gramatan Avenue
Mount Vernon, New York 10552

565 Gramatan Avenue
Mount Vernon, New York 10552

Re: License No. 135363

Dear Dr. Buffman:

Enclosed please find Order No. 16959. This letter will explain when the Order regarding the above respondent goes into effect.

If the penalty imposed by the Order is an annulment, revocation, surrender, or an actual suspension (suspension which is not wholly stayed) of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter.

In the event you are personally served with the Order, the Order is effective as of the date of the personal service. In the event you are served by certified mail and are not personally served with the Order, the Order is effective five (5) days after the date of this letter. The Order will take effect as indicated in this letter, even if you fail to meet the time requirement of delivering your license and registration to this Department.

If the penalty imposed by the Order is a revocation or a surrender of your license, you may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after three years have elapsed from the effective date of the Order and the penalty. Please be advised that said application is not granted automatically.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By:

Gustave Martine
GUSTAVE MARTINE
Supervisor

DJK/GM/er
Attachment

CERTIFIED MAIL - RRR

cc: Anne Saile, Director

New York State Department of Health
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180-2299

VOTE AND ORDER

BARRY RAY BUFFMAN

CALENDAR NO. 16959



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

Barry Ray Buffman

No. 16959

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

REPORT OF THE REGENTS REVIEW COMMITTEE

BARRY RAY BUFFMAN, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

The Family Court of the State of New York, County of Westchester, has previously determined that respondent has accumulated support arrears equivalent to or greater than the amount of current support due for a period of four months. Such Court has invoked Family Court Act §458-b to enforce respondent's payment of these support arrears. This statute and Education Law §6509-b authorize the Family Court to order the commencement of professional discipline proceedings for the suspension of a license to practice a profession in the State of New York unless the licensee can prove, by competent evidence, that the accumulated support arrears have been fully paid by the date set for the disciplinary hearing.

BARRY RAY BUFFMAN (16959)

The Family Court has ordered that a professional discipline proceeding be commenced against the respondent. In this proceeding, respondent is charged with committing the additional definition of professional misconduct set forth in Education Law §6509-b. The one specification of professional misconduct contained in the statement of charges, which is annexed hereto, made a part hereof, and marked as Exhibit "A", alleges that respondent has not paid the \$34,052.00 of support arrears that he owed and were determined by the New York State Family Court to have accumulated.

Pursuant to Education Law §6509-b, a hearing was scheduled to be held for the sole purpose of determining whether proof exists to demonstrate that full payment of all arrears of support established by the order of the court to be due from respondent have been paid. Thus, the only issue to be determined in such hearing "is whether the arrears have been paid."

This matter represents the second professional discipline proceeding to be brought against respondent based upon the same alleged misconduct. In a prior disciplinary matter, under Calendar No. 16844, based upon the Family Court's June 20, 1997 Order,¹ petitioner, the Office of Professional Discipline, acknowledged that it had not served respondent for the return date of August 11,

¹ Plaintiff Carol Buffman did not provide notice to the Board of Regents of the Family Court's earlier April 4, 1997 Order. Plaintiff's attorney mistakenly instead sent such earlier Order to the New York State Health Department. Furthermore, such earlier Order did not name and was not directed to the Board of Regents.

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1997. No determination was rendered in that prior proceeding and the merits of the instant charges remain unresolved. Subsequently, the Family Court has issued an Amended Order To Licensing Entity ordering the commencement of this disciplinary proceeding. Therefore, both this Regents Review Committee and the Regents Review Committee which convened on August 11, 1997 have treated the present Family Court Order as superseding the prior Family Court Order. We have proceeded in accordance with the most recent Order of the Family Court requiring the commencement of this disciplinary proceeding. In any event, inasmuch as respondent was not served in the prior proceeding, such prior proceeding was never commenced and the time limits specified by statute for commencing such proceeding have now expired.

Based upon the Amended Order To Licensing Entity, petitioner has served respondent with the notice of hearing and statement of charges for this hearing. On September 24, 1997, petitioner appeared at this hearing by its attorney Michael G. Hilf. Respondent did not appear at this hearing in person or by an attorney.

As described more fully by petitioner's affidavit of service in evidence, the notice of hearing and statement of charges were served upon respondent by certified mail,² return receipt requested, after due diligence was exercised, on various occasions, in attempting to personally serve respondent in this matter.

² An additional mailing of the Notice of Hearing and Statement of Charges was also sent to respondent at his residential address in California.

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Following making three separate efforts to personally serve respondent at respondent's residence in California, the process server made additional efforts to locate a business address and then to serve respondent personally at such business address. On two of the occasions when the process server travelled to respondent's residential address, the process server also spoke to a "female occupant" in a further effort to find the respondent. When these efforts all proved unsuccessful, a certified mailing was sent to respondent's last known address. This certified mailing went unclaimed on each occasion when delivery was attempted. Moreover, while these efforts to serve respondent were being undertaken, respondent was aware that he was in arrears on his child support obligations, that Court Orders were issued to enforce those unmet obligations, and that petitioner was seeking to commence a disciplinary proceeding against him as a result of the Court Orders regarding established unpaid support arrears. Although respondent had previously moved to California, he maintains his registration with the New York State Education Department as a physician from an address in Mount Vernon, New York. Under all of the particular circumstances herein, this disciplinary proceeding to enforce the support arrears already established by the Court was duly commenced. See, Tarter v. Sobol, 189 A.D.2d 916 (3rd Dept. 1993).

Petitioner's written recommendation as to the penalty to be imposed, should respondent be found guilty, was that respondent's

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license to practice as a physician in the State of New York be suspended as mandated by Education Law §6509-b(3).

We have reviewed the record in this matter; and our unanimous findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed follow:

FINDINGS OF FACT

1. Respondent was licensed to practice as a physician in this State by the New York State Education Department.
2. By Order of the Family Court of the State of New York, County of Westchester, dated March 16, 1994, respondent was ordered to pay child support to each of his two children.
3. The Family Court issued an Order, dated November 29, 1995, directing respondent to pay \$1,000 per week for the support of his dependents.
4. On December 2, 1996, a Family Court Hearing Examiner determined that respondent knowingly, consciously, and voluntarily disregarded his obligation to pay child support in that he willfully failed to pay the sum of \$34,052. These arrears of child support covered a 54 week period and was calculated after giving respondent credit for the payment he made. Accordingly, a money judgment was entered against respondent for these arrears in the amount of \$34,052.

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5. By Order dated January 31, 1997, the Family Court determined that respondent has accumulated unpaid child support arrears equivalent to or in excess of the amount of current child support due for a period of four months.
6. On August 20, 1997, Family Court Judge Hon. Adrienne Hofmann Scancarelli entered an Amended Order To Licensing Entity ordering the commencement of this disciplinary proceeding pursuant to Family Court Act §458-b and Education Law §6509-b.
7. Respondent has not submitted any proof that he has paid the relevant arrears established by the Order of the Family Court.
8. Respondent has not paid the accumulated child support arrears he was ordered to pay by the Family Court.

DETERMINATION AS TO GUILT

The specification of professional misconduct has been proven by a preponderance of the evidence and respondent is guilty thereof.

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

Upon the specification of the charges upon which respondent has been found guilty, respondent's license to practice as a physician in the State of New York be suspended indefinitely until the Family Court or the Support Collection Unit designated by the appropriate social services district issues, and the Executive Director of the Office of Professional Discipline receives, notice that respondent has made full payment of all arrears of support

BARRY RAY BUFFMAN (16959)

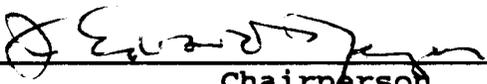
established by the Order of the Family Court to be due, as set forth in this report.

Respectfully submitted,

J. EDWARD MEYER

MELINDA AIKINS BASS

PAUL B. MARROW



Chairperson

Dated: October 8, 1997

NEW YORK STATE BOARD OF REGENTS
NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF PROFESSIONAL DISCIPLINE

-----X

IN THE MATTER

of the

Disciplinary Proceeding

against

BARRY RAY BUFFMAN

STATEMENT
OF
CHARGES

CAL. NO. 16959

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

-----X

TO: THE REGENTS REVIEW COMMITTEE

THE NEW YORK STATE EDUCATION DEPARTMENT BY ITS DIVISION OF
PROSECUTION OF THE OFFICE OF PROFESSIONAL DISCIPLINE ALLEGES AS
FOLLOWS:

BARRY RAY BUFFMAN, hereinafter referred to as the Respondent,
was issued license No. 135363 on or about July 28, 1978 by the New
York State Education Department authorizing the Respondent to
practice as a physician in the State of New York.

Respondent is not currently registered with the New York State
Education Department to practice as a physician in the State of New
York. Respondent's last address on file with the Division of
Professional Licensing Services is 630 Gramatan Avenue, Mount
Vernon, New York 10552.

SPECIFICATION OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct,
within the purview and meaning of New York Education Law section
6509-b, in that:

RECEIVED 6/11/79

A. On or about August 20, 1997, an order was entered in the Clerk's Office, Family Court of the State of New York, County of Westchester, in the matter of Carol Buffman, Petitioner, against Dr. Barry Buffman, Respondent, Docket Nos. F-631-93 and X-3898-96, Family Court of the State of New York, County of Westchester.

B. In the aforesaid order, the Honorable Adrienne Hofmann Scancarelli, a Judge of the Family Court of the State of New York, ordered that the Board of Regents commence proceedings pursuant to Section 458-b of the Family Court Act and Section 6509-b of the Education Law against Respondent. Said Order was based upon the Court's having previously determined that Respondent had accumulated unpaid child support or combined child and spousal support arrears equivalent to or in excess of current support due for a period of four months, said arrearages totalling \$34,052.00.

WHEREFORE, it is requested that Respondent's license and registration to practice as a physician in the State of New York be suspended until such time as the Regents Review Committee is issued notice by the Family Court of the State of New York that full payment of all arrears of support established by the order of said court to be due has been made.

Dated: 26th day of August, 1997

FRANK MUÑOZ
ACTING PROFESSIONAL CONDUCT OFFICER

NINA GOTTLIEB
DIRECTOR OF PROSECUTIONS

By: 
MICHAEL GARY HILF
Prosecuting Attorney
Office of Professional Discipline
N.Y.S. Education Department
One Park Avenue -- 6th Floor
New York, New York 10016-5802
(212) 951-6401

MGH:sql-g

**REPORT OF THE
REGENTS REVIEW COMMITTEE**

BARRY RAY BUFFMAN

CALENDAR NO. 16959



The University of the State of New York

IN THE MATTER

OF

BARRY RAY BUFFMAN
(Physician)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 16959**

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 16959, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (November 14, 1997): 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 BARRY RAY BUFFMAN, respondent, be accepted; that respondent is guilty of the specification of professional misconduct by a preponderance of the evidence; that, upon the specification of the charges upon which respondent has been found guilty, respondent's license and registration to practice as a physician in the State of New York be suspended indefinitely until the Family Court or the Support Collection Unit designated by the appropriate social services district issues, and the Executive Director of the Office of Professional Discipline receives, notice that respondent has made full payment of all arrears of support established by the Order of the Family Court to be due, as set forth in the report of the Regents Review Committee; and that the Associate Commissioner for the Professions be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

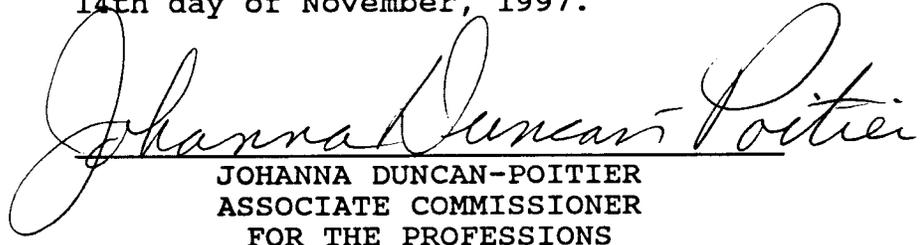
BARRY RAY BUFFMAN (16959)

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

IN WITNESS WHEREOF, I, Johanna Duncan-Poitier, Associate Commissioner for the Professions, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand, at the City of Albany, this 14th day of November, 1997.


JOHANNA DUNCAN-POITIER
ASSOCIATE COMMISSIONER
FOR THE PROFESSIONS