



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

August 1, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Eric Jacobs, M.D.
209 Pine Street-Apt. 12
Metairie, Louisiana 70005

Jude Brearton Mulvey, Esq.
NYS Department of Health
Empire State Plaza-Corning Tower
Room 2509
Albany, New York 12237

RE: In the Matter of Eric Jacobs, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-211) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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), "the 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 penalties other than suspension or revocation 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
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

COPY

DETERMINATION

AND

ORDER

BPMC #00-211

IN THE MATTER
OF
ERIC JACOBS, M.D.

A Notice of Referral Proceeding and Statement of Charges, both dated, April 3, 2000, were served upon the Respondent, **ERIC JACOBS, M.D.**

SHARON KURITZKY, M.D., Chairperson, **LYON GREENBERG, M.D.** and **MR. PETER KOENIG**, duly designated members of the State Board of Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on July 20, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **JUDE BREARTON MULVEY, ESQ.**, of Counsel. The Respondent failed to appear.

Evidence was received and transcripts of these proceeding were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis 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. All Hearing Committee findings were unanimous unless otherwise stated.

1. **ERIC JACOS, M.D.**, the Respondent, was authorized to practice medicine in New York State on November 5, 1990, by the issuance of license number 184464 by the New York Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. (Pet's. Ex. 1).

2. On May 18, 1999, the Louisiana State Board of Medical Examiners, (hereinafter "Louisiana Board") by Consent Order (hereinafter "Louisiana Order") suspended the Respondent from the practice of medicine for one (1) year. The "Louisiana Board" ordered a further four (4) year suspension following the one (1) year suspension, stayed the four year suspension subject to terms and conditions, which included requiring the Respondent to successfully complete a residency training program; take and successfully complete the Special Purpose Examination ("SPEX"); complete 50 hours of Continuing Medical Education for each year the Consent Agreement is in effect; complete a Medical Ethics Course for each year the Consent Agreement is in effect ; cooperate with and abide by terms and conditions of probation, divest himself of all ownership or other interests in any clinic or business having to do with endermology, cellulite removal

treatment or fat reduction; refrain from any role in any clinic or business related to health care without written Board approval; perform 80 hours of community service for each year the Consent Agreement is in effect; and was fined \$5,000.00. (Pet's. Ex. 4).

3. The action by the Louisiana Board was the result of an investigation in which it was revealed that a pattern of problems emerged from Dr. Jacob's undertaking to treat patients and bill for their laboratory work done within his Harvey, Louisiana and La Place, Louisiana clinics, or ultimately processed to outside pathology departments. These problems include billing, the submission of false, deceptive or unfounded claims to the Louisiana Department of Health and Human Resources, for Medicaid reimbursement; they also included the improper and untimely processing of laboratory specimens; substandard treatment of patients by failed or incomplete laboratory tests or untimely returned results; and improper directions to clinic employees and physicians on billing practices.

The "Louisiana Board" concluded that its investigation confirmed that just cause existed for recommending that a formal Administrative Complaint be filed against Dr. Jacobs, charging him with violation of the Louisiana Medical Practice Act. An Administrative Complaint was initially issued, and a Supplemental and Amending Administrative Complaint, dated August 19, 1998, was issued by the Louisiana Board.

By signing the Consent Order, the Respondent acknowledged the information developed by the Board's investigation constituted probable cause for the issuance of the Supplemental and Amending Administrative Complaint, and admitted that proof of such information upon administrative evidentiary hearing would establish grounds under the Act for the suspension, revocation or such other action as the Board might deem appropriate against his license to practice medicine in the State of Louisiana. (Pet's. Ex. 4 and 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct resulting in the Louisiana Board's disciplinary action against the Respondent would constitute misconduct under the laws of New York State, pursuant to:

- New York Education Law §6530(2) (practicing the profession fraudulently);
- New York Education Law §6530(3) (practicing the profession negligently on more than one occasion), and/or
- New York Education Law §6530(16) (a willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine)

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of New York State Education Law §6530(9)(d) by reason of having disciplinary action taken by a duly authorized professional disciplinary agency of another state, wherein the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that the Respondent entered into a Consent Order with the Louisiana State Board of Medical Examiners wherein he acknowledged that the information developed by the Board's investigation constituted probable cause for the issuance of the Supplemental and Amending Administrative Complaint, admitted that proof of such information upon administrative evidentiary hearing would establish grounds under the Act for the suspension, revocation or such other action as the Board might deem appropriate against his license to practice medicine in the State of Louisiana.

The conduct alleged, would, if committed in New York, constitute serious violations of New York State Education Law Sections §6530 (2), §6530 (3) and §6530(16).

The Respondent did not appear at the instant hearing, nor did he submit any evidence in mitigation of the charges.

The Hearing Committee determined unanimously (3-0) that the Respondent's license to practice medicine in the state of New York should be REVOKED.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby REVOKED.
2. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: New York

7/28/2000


SHARON KURITZKY, M.D.
Chairperson

LYON GREENBERG, M.D.
MR. PETER KOENIG

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

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IN THE MATTER : NOTICE OF
OF : REFERRAL
ERIC JACOBS, M.D. : PROCEEDING

-----x

TO: Eric Jacobs, M.D.
Apt 12
209 Pine Street
Metairie, LA 70005

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. 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 May, 2000 at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

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.

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 the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before May 8, 2000.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge or Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the

Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before April 10, 2000 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 the Bureau of Adjudication, 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: Albany, New York

April 3 , 2000



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

Inquiries should be addressed to:

Jude Brearton Mulvey
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
ERIC JACOBS, M.D. : CHARGES

-----X

ERIC JACOBS, M.D., the Respondent, was authorized to practice medicine in New York State on November 5, 1990 by the issuance of license number 184464 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

- A. On or about May 18, 1999, the Louisiana State Board of Medical Examiners (hereinafter "the Board") by a Consent Order (hereinafter "the Louisiana Consent Order") suspended Respondent Eric Jacobs (hereinafter "the Respondent") from the practice of medicine for five (5) years, four (4) years of which are to be stayed during which time Respondent is required to, among others, successfully complete a residency training program, take and successfully complete the Special Purpose Examination ("SPEX"), complete 50 hours of Continuing Medical Education for each year the Consent Agreement is in effect, complete a Medical Ethics Course for each year

the Consent Agreement is in effect, cooperate with and abide by terms and conditions of probation, divest himself of all ownership or other interests in any clinic or business having to do with endermology, cellulite removal treatment or fat reduction, refrain from any role in any clinic or business related to health care without written Board approval, perform 80 hours of community service for each year the Consent Agreement is in effect and was fined \$5000.00 based upon, among others, Respondent's continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of practice and making or submitting false, deceptive or unfounded claims for the purpose of obtaining anything of value. At the end of the five year suspension period, Respondent must petition the Board for reinstatement of his license.

B. The conduct resulting in the Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

- A. New York Education Law Section 6530(2) (practicing the profession fraudulently);
- B. New York Education Law Section 6530(3) (practicing the profession negligently on more than one occasion), and/or
- C. New York Education Law Section 6530(16) (failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of New York Education Law §6530(9)(d) by reason of having disciplinary action taken by a duly authorized professional disciplinary agency of another state, wherein the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State in that Petitioner charges:

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

DATED: *April 3*, 2000

Albany, New York



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