



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

May 5, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

William J. Mesibov, M.D.
132 Roger Canoe Hollow
Millneck, New York 11791

William J. Mesibov, M.D.
50 Underhill Boulevard
Syosset, New York 11791

Paul F. Corcoran, Esq.
Davis & Gilbert, LLP
1740 Broadway
New York, New York 10019

Robert Bogan, Esq.
Paul Robert Maher, Esq.
NYS Department of Health
433 River Street – 4th Floor
Troy, New York 12180

RE: In the Matter of William J. Mesibov, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-144) 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.

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.

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.

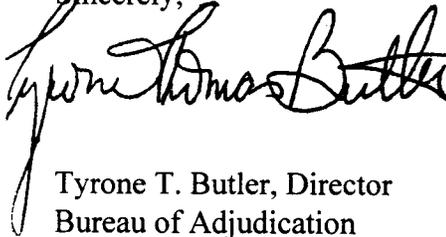
The notice of review served on the Administrative Review Board should be forwarded to:

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

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

**IN THE MATTER
OF
WILLIAM J. MESIBOV, M.D.**

DECISION**AND****ORDER**

BPMC 00-144

A Notice of Referral Processing and a Statement of Charges, both dated, January 28, 2000, were served upon the Respondent, **WILLIAM J. MESIBOV, M.D.**

JOHN W. CHOATE, M.D., Chairperson, **JOHN P. FRAZER, M.D.** and **STEPHEN E. WEAR, PH.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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on April 18, 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 **ROBERT BOGAN, ESQ.**, and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent appeared by **DAVIS & GILBERT, LLP**, 1740 Broadway, New York, New York 10019, by **PAUL F. CORCORAN, ESQ.**, of Counsel.

Evidence was received and transcripts of these proceeding 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 case, 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: None

FINDINGS OF FACT

The following Findings 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. **WILLIAM J. MESIBOV, M.D.**, the Respondent, was authorized to practice medicine in New York State on September 5, 1963, by the issuance of license number 090604 by the New York State Education Department. (Pet's. Ex. 3)

2. On November 24, 1999, in the United States District Court, Eastern District of New York, Happaug Division, Respondent was found guilty of Conspiracy to Impede the US in the Collection of Income Taxes, in violation of 18 U.S. Code §371, and sentenced to five (5) years probation, which includes two (2) years community service, cooperation with IRS; that he maintain malpractice insurance while performing community service; and pay a \$100.00 assessment. (Pet's. Ex. 4)

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

Respondent violated New York Education §6530(9)(a)(ii) by having been convicted of an act constituting a crime under federal law.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that the Respondent pleaded guilty in the United States District Court, Eastern District of New York, to violating 18 U.S.C. §371 (Conspiracy to Impede the U.S. in the collection of Income Taxes) by listing personal expenses through the corporation and by overstating tax deduction.

The Respondent was sentenced to five (5) years probation, which includes two (2) years of uncompensated, full-time community service, cooperation with the IRS; that he maintain malpractice insurance while performing the community service, and to pay a \$100.00 assessment.

A copy of the "Supervision Contract – Terms and provisions of community service as a special condition of probation" is attached hereto and made a part hereof.

The Hearing Committee has taken into consideration the following factors in determining the nature and severity of the penalty to be imposed on the licensee:

- The charges against the Respondent do not reflect on his competence as a physician.

- For the past 30 years, the Respondent has devoted one month per year training pediatric residents without compensation.
- The Respondent enjoys the reputation of being an excellent physician.
- The Respondent needs his medical license to comply with the federal court's order requiring him to perform two years of uncompensated full-time community service.

The Hearing Committee determines that the appropriate penalty in this case would be a two (2) years suspension, stay said suspension and place the Respondent on probation for two (2) years under terms and conditions hereinafter specified in the **ORDER**.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is **SUSPENDED** for two (2) years, suspension **STAYED**.
2. The Respondent is placed on probation for a period of two (2) **YEARS** under the following terms and conditions:
 - Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.

- Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.
- Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
- The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York state for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
- The Respondent shall comply with all of the terms and conditions of probation as prescribed by the Federal Court. The Respondent shall cause his federal probation officer to submit semi-annual reports to the Office of Professional Medical Conduct reporting on his compliance or failure to comply with any of the terms of his federal

APPENDIX I

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

**IN THE MATTER
OF
WILLIAM J. MESIBOV, M.D.**

NOTICE
OF
REFERRAL
PROCEEDING

TO: WILLIAM J. MESIBOV, M.D.
132 Roger Cance Hollow
Millneck, New York 11791

WILLIAM J. MESIBOV, M.D.
50 Underhill Boulevard
Syosset, New York 11791

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 23rd day of March, 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 March 14, 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 March 14, 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
January 28, 2000



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

Inquiries should be addressed to:

Robert Bogan
Assistant Counsel
Office of Professional Medical Conduct
433 River Street
Suite 303
Troy, NY 12180
(518)402-0820

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

**IN THE MATTER
OF
WILLIAM J. MESIBOV, M.D.**

STATEMENT
OF
CHARGES

WILLIAM J. MESIBOV, M.D., the Respondent, was authorized to practice medicine in New York state on September 5, 1963, by the issuance of license number 090604 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 24, 1999, in the United States District Court, Eastern District of New York, Happaug Division, Respondent was found guilty of Conspiracy to Impede the US in the Collection of Income Taxes, in violation of 18 U.S. Code §371, and sentenced to five (5) years probation, which includes two (2) years Community Service, cooperation with IRS, and that he maintain malpractice insurance while performing Community Service, and pay a \$100.00 assessment.

SPECIFICATION

Respondent violated New York Education §6530(9)(a)(ii) by having been convicted of an act constituting a crime under federal law, in that petitioner charges:

1. The facts in paragraphs A.

DATED: *Jan 28*, 2000
Albany, New York



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

SUPERVISION CONTRACT:

Terms and Provision of Community Service as a Special Condition of Probation

U.S. v. Stuart Altman (Dkt.No:98-CR-1027)

U.S. v. William Mesibov (Dkt.No:99-CR-546)

1. This contract represents an agreement by the defendants to perform Community Service under the supervision of the U.S. Probation Department, for the Suffolk County Department of Health, per the Sentencing Judgment of the Honorable Leonard D. Wexler, Sr. United States District Judge. In this agreement, both defendants agree to engage in a period of community service as specified below:

Stuart Altman ("Altman") will serve a period of non-compensated community service at a medical facility to be specified by Probation for a period of six (6) months. The specific hours and dates for commencement and completion of Altman's community service shall be specified by Probation. Altman may not unilaterally substitute any days or modify his hours during his term of community service.

During the period of community service, Altman shall work an eight (8) hour day, excluding transportation time from and to his home. During the period of community service, Altman will be entitled to a vacation period of ten (10) calendar days as specified below.

Altman's term of community service will commence prior to that served by William Mesibov. Upon completion of Altman's stated period of community service, William Mesibov will begin his term of community service.

Upon completion of Altman's period of community service.

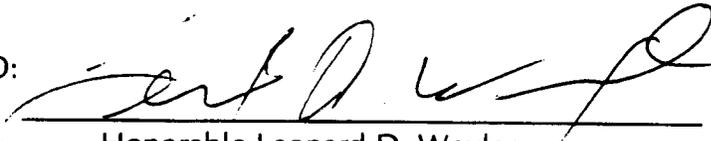
William Mesibov ("Mesibov") will serve a period of non-compensated community service at a medical facility to be specified by Probation for a period of two (2) years. The specific hours and dates for commencement and completion of Mesibov's community service shall be specified by Probation. Mesibov may not unilaterally substitute any days or modify his hours during his term of community service.

During the period of community service, Mesibov shall work an eight (8) hour day, excluding transportation time from and to his home. During the period of community service, Mesibov will be entitled to a vacation period of fifteen (15) calendar days as specified below.

2. Altman and Mesibov shall be entitled to vacation periods as follows: Altman is entitled to 10 calendar vacation days to be used during Altman's six (6) month period of community service. Mesibov is entitled 15 calendar vacation days to be used in each of the two years of community service. Mesibov's vacation days shall be used in each calendar year. Any vacation day not used in the first calendar year of community service is waived and may not be used in the second calendar year of community service. Should either defendant wish to use his allotted vacation time, he will make said request to the Supervising Probation Officer at least 30 days in advance. Requests to use vacation time shall be subject to review by the Supervising Probation Officer.
3. It is the intent of this agreement that Altman and Mesibov shall be prohibited from practicing medicine or engaging in other employment in exchange for compensation, monetary or otherwise, during the period of community service. Accordingly, at no time during the period of community service, shall either defendant be permitted to render medical services or advice or in any way practice medicine or engage in other employment. The community service performed pursuant to this agreement is to be performed during the regular day-time hours as specified by the Supervising Probation Officer. Defendants shall not enter into any agreement or engage in any further employment at night, on weekends, or at any other time during the period of community service, including periods of vacation.
4. Defendants will not be entitled to receive any compensation for travel expenses.
5. Each defendant must maintain his own medical malpractice insurance policy during the term of community service to be paid by each defendant; said expenses are not reimbursable by the government.
6. Each defendant will be required to work a full work week unless excused in advance by the Supervising Probation Officer. Said excusals are limited to medical infirmity and/or emergency situation. Under such circumstances, the defendants will notify, in advance, the Probation Officer of the circumstances. The Probation Officer will retain the authority to excuse the defendant from employment for the period of concern. Any work days not completed will be added on to the end of the community supervision term until a full period of six (6) months (Altman) and two (2) years (Mesibov) has been reached.
7. The defendants will not be permitted to travel out of the district during their community service term except as approved for vacation purposes only. Permission to travel on the weekends must be made to the Supervising Probation Officer at least 30 days in advance. This request will not constitute approval and said approval must be given by the Supervising Probation Officer.
8. The Supervising Probation Officer will routinely and closely monitor the defendants' compliance with this community service portion of their sentence. Such monitoring may include telephone contact and community visits to ensure compliance with this agreement.

9. Failure by either defendant to comply with this contract will be deemed violation of The Special Condition of Probation. Under such circumstances, a Violation of Probation action will be initiated resulting in the respective defendant's appearance before the Court.
10. The terms and provisions of this supervision contract are nonnegotiable.
11. Each defendant's signature on this contract represents his agreement to the above-cited conditions as part of the Probation term in exchange for a period of imprisonment.
12. Each defendant acknowledges that he has consulted with his attorney regarding the terms and conditions of this agreement. Each defendant further acknowledges that he understands fully the terms and conditions of this agreement and agrees thereto. Defendants expressly waive any right to challenge the terms and conditions of this agreement, either on appeal or by way of a separate civil action.

SO ORDERED:

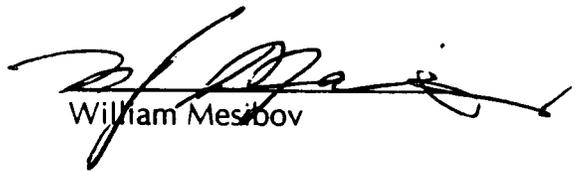


Honorable Leonard D. Wexler
Sr. United States District Judge

November 24 1999



Stuart Altman



William Mesibov



Attorney for Stuart Altman



Attorney for William Mesibov

11/24/99
Date

11/24/99
Date