



**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., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

Public

April 11, 2006

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ernest J. Steinhilber, M.D.
103 Enclave Lane
St. Simons Island, Georgia 31522

Robert Bogan, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
233 River Street - Suite 303
Troy, New York 12180-2299

RE: In the Matter of Ernest J. Steinhilber

Dear Parties:

Enclosed please find the Determination and Order (No. 06-076) 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 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,



Sean D. O'Brien, Director
Bureau of Adjudication

SDO:djh

Enclosure

COPY
BPMC NO. 06-76

IN THE MATTER
OF
ERNEST J. STEINHILBER, M.D.

**DETERMINATION
AND
ORDER**

A Notice of Referral Proceeding and Statement of Charges, both dated February 8, 2006, were served upon the Respondent, **ERNEST J. STEINHILBER, M.D.** **RAVINDER MAMTANI, M.D.**, Chairperson, **JAGDISH M. TRIVEDI, M.D.** and **ANTIONETTE M. MYERS, R.N., COHN-S, CCM**, 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. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on March 23, 2006, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent appeared pro se.

Evidence was received and transcripts of these proceedings 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 cases, 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 that 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 Sections 6530(9)(b) and (d), based upon actions constituting violations of subdivisions (2), (20) and (21). 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:	Respondent

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex.". These citations refer to 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 specified.

1. **ERNEST J. STEINHILBER, M.D.**, the Respondent, was authorized to practice medicine in New York State on 2/22/58, by the issuance of license number 080541 by the New York State Education Department. (Ex. 4)
2. On 5/10/05, the State of Maine Board of Licensure in Medicine ("the Maine Board") and Respondent entered into a "Consent Agreement for Renewal of License", wherein Respondent agreed to accept a reprimand and \$1,500.00 fine to settle a notice of complaint charging him with fraud and deceit in not listing, in a license renewal application, disciplinary actions taken by other states. (Ex. 5)

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the conduct resulting in the Maine Board's disciplinary action against Respondent constitutes misconduct in New York under §6530(9)(a) and (b), in that the conduct would have constituted misconduct under the laws of New York State, had it been committed here, pursuant to:

- New York Education Law §6530(2) (practicing the profession fraudulently);
- New York Education Law §6530(20) (behavior evidencing moral unfitness to practice);
- New York Education Law §6530(21) (willfully making or filing a false report required by law or by the departments of health or education).

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized

professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state.

VOTE: SUSTAINED (3-0)

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where 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 establishes that Respondent was disciplined by the Maine Board in settlement of charges that he committed fraud and deceit in a license renewal application. Respondent admitted at the hearing that he had answered a question incorrectly on the application that asked for information regarding past disciplinary actions by other states, but he attributed this failure something akin to "oversight" rather than to intent to deceive the Maine Board.

The Hearing Committee finds this explanation, which was, at best difficult to follow, to be seemingly inconsistent with the Maine board's conclusions, and to be unbelievable, based upon the history of events leading up to the Maine Board's order. As noted in that order (Ex. 5), Respondent's troubles began some time prior to 1998, which is the year the Alaska Medical Board denied Respondent's application for licensure because of his failure

to answer truthfully several questions on the application. Thereafter, according to the Maine Board, the boards in other states began to take action against Respondent based upon "either the Alaska disciplinary action or [Respondent's] failure to fully disclose all licenses, complaints and/or disciplinary actions filed with or taken by state medical boards where he was licensed."

One of the disciplinary actions the Maine Board referred to in its order of 5/10/05 was a then recent one in the State of New York. That action had resulted in a Consent Agreement and Order finalized on 10/25/04, wherein Respondent agreed to accept an indefinite suspension¹ of his license of at least 6 months and a \$2,000 fine to settle charges relating to the surrender of his Pennsylvania license in 2003. More specifically, it was alleged that Respondent had agreed to surrender his Pennsylvania license to settle charges that he lied on a 2002 license renewal application in that state with regard to three questions: 1). asking if he held licenses in other states; 2). asking whether he had had any disciplinary actions taken against him by other states; and 3). asking whether he had had adverse outcomes from license or license renewal applications in other states. (Ex. 6).

Although information is lacking in the record as to the specific details regarding whatever disciplinary actions, license denials and/or surrenders were involved in other state actions cited by the Pennsylvania Board and Maine boards, it is clear from the evidence, at a minimum, that Respondent had lied on applications in at least two other states (Alaska and Pennsylvania) before he answered the questions at issue on the Maine renewal application. Furthermore, the original New York consent agreement relating to the

¹ On or about 2/28/06, the Department approved an application by Respondent to amend the original New York consent order to stay the then remaining portion of the suspension, under terms and conditions. (Ex. 7)

Pennsylvania action had been entered into just six months prior to the Maine renewal application.

It is inconceivable to the Hearing Committee that Respondent's incorrect answers on the Maine application resulted from anything other than an attempt to hide other states' disciplinary actions against him. The Hearing Committee concludes that Respondent's conduct resulted not from innocent oversight but from a basic lack of honesty.

The Hearing Committee determines that Respondent's repeatedly manifested inability to be forthright with licensing agencies, even after having been criticized for that very behavior, demonstrates that he cannot be trusted to practice with the degree of honesty and high moral standard required of physicians, and that revocation of his New York license is the only penalty that can be imposed that will adequately address this problem.

ORDER

IT IS HEREBY ORDERED THAT:

1. The New York medical license of **ERNEST J. STEINHILBER, M.D.** is hereby **REVOKED.**

The **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Hopewell Junction, New York
April 7, 2006



RAVINDER MAMTANI, M.D.
Chairperson

JAGDISH M. TRIVEDI, M.D.
ANTIONETTE M. MYERS, R.N., COHN-S,
CCM

APPENDIX 1

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

IN THE MATTER

OF

ERNEST JOHN STEINHILBER, M.D.
CO-05-06-2880-A

NOTICE OF
REFERRAL
PROCEEDING

TO: ERNEST JOHN STEINHILBER, M.D.
103 Enclave Lane
St. Simons Island, GA 31522

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law § 230(10)(p) and New York State Administrative Procedure 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 2006, 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 attached Statement of Charges. 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 that 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, ATTENTION: HON. SEAN O' BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before March 13, 2006.

Pursuant to the provisions of New York 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 of 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 13, 2006, 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

February 8, 2006


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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER
OF
ERNEST JOHN STEINHILBER, M.D.
CO-05-06-2880-A

STATEMENT
OF
CHARGES

ERNEST JOHN STEINHILBER, M.D., Respondent, was authorized to practice medicine in New York state on July 7, 1958, by the issuance of license number 080541 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 10, 2005, the State of Maine, Board of Licensure in Medicine (hereinafter "Maine Board"), by a Consent Agreement for Renewal of License (hereinafter "Maine Agreement"), REPRIMANDED Respondent and fined him \$1,500.00, based on having answered falsely on his February 7, 2005, Maine renewal application for a license to practice medicine by falsely answering "No" to Question 15-1 which asked if he "Had any state or territory of the U.S. or province/territory of Canada EVER deny your application for any license, taken any disciplinary action against the license issued to you in that jurisdiction (including but no limited to warning, reprimand, fine, suspension, revocation or restrictions in permitted practice, probation with or without monitoring?)."

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

1. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(20) (moral unfitness); and/or
3. New York Education Law §6530(21) (willfully making or filing a false report required by law or by the department of health or the education department).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York State Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based 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.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where 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:

2. The facts in Paragraphs A and/or B.

DATED: *February 8*, 2006
Albany, New York

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