



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

August 25, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Harvey Taubes, M.D.
1 Aspen Place
Great Neck, New York 11021-2810

Jeffrey Rubin, Esq.
Rubin & Shang
9 East 40th Street
New York, New York 10011

Robert Bogan, Esq.
NYS Department of Health
Empire State Plaza
Corning Tower - Room 2503
Albany, New York 12237

RE: In the Matter of Harvey Taubes, M.D.

Dear Dr. Taubes, Mr. Rubin and Mr. Bogan:

Enclosed please find the Determination and Order (No. BPMC-97-204) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 cursive script that reads "Tyrone T. Butler". The signature is written in black ink and is positioned above the typed name.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

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

COPY

IN THE MATTER
OF
HARVEY TAUBES, M.D.

DETERMINATION
AND
ORDER

BPMC-97-204

A Notice of Referral Proceedings, dated May 28, 1997, and a Statement of Charges, dated May 27, 1997, were served upon the Respondent, **HARVEY TAUBES, M.D.**

ROBERT J. O'CONNOR, M.D., Chairperson, **RICHARD ASHLEY, M.D.** and **MR. DENNIS GARCIA**, duly designated members of the State Board for Professional Medical Conduct served as the Hearing Committee in this matter pursuant to Section 23(10)(e) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on August 13, 1997 at the Offices of the New York State Department of Health, 5 Penn Plaza, New York, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent appeared in person and was represented by **RUBIN & SHANG**, 9 East 40th St., New York, New York 10011, **JEFFREY RUBIN, ESQ.**, of Counsel.

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 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)(i). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

WITNESSES:

For the Respondent

1. Harvey Taubes, M.D., the Respondent
2. Rabbi Robert Widom
3. Richard Coven, M.D.
4. Neil Phillips
5. Susan Boughner
6. Isaac Goldschlager
7. Margaret Mary Taubes (Mrs. Harvey Taubes)

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 unanimously unless otherwise stated.

1. **HARVEY TAUBES, M.D.**, the Respondent , was authorized to practice medicine in New York State on September 26, 1960, by the issuance of license number 084922 by the New York State Education Department (Pet's. Exs. 1 and 2).

2. On September 18, 1992, in Police Court, Albany County, New York, the Respondent was found guilty of one count of Failing to File a Return or Report, (Section 1801(a) of the New York Tax Law), a misdemeanor.

The Respondent was fined Five Thousand (\$5,000) Dollars and sentenced to Thirty (30) Days in the Albany County Jail (Pet's. Exs. 9 and 10).

3. On August 3, 1995, in New York State Supreme Court, Kings County, the Respondent was found guilty of two counts of Grand Larceny in the Third Degree, (Section 155.35 of the New York Penal law); eight counts of Offering a False Instrument for filing in the First Degree, (Section 175.35 of the New York Penal Law); and one count of Tampering with Physical Evidence, (Section 215.40 of the New York Penal Law), all felonies and all relating to the Medicaid Program.

The Respondent was sentenced to sixteen intermittent weekends in jail; ordered to pay restitution of Six Thousand (\$6,000) Dollars to the Medicaid of New York State Escrow Fund; fined Seventeen Thousand (\$17,000) Dollars; put on probation for five (5) years; and charged a One Hundred and Fifty Five (\$155.00) Dollar mandatory surcharge (Pet's. Exs. 6 and 7).

VOTE OF THE HEARING COMMITTEE
(All votes were unanimous unless otherwise specified)

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

The Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(a)(i) (McKinney Supp. 1997) by reason of having been convicted of committing acts constitution crimes under New York State law.

VOTE: SUSTAINED (3-0)

DETERMINATION OF THE HEARING COMMITTEE

The Hearing Committee was impressed with the sincere and positive testimony of the character witnesses who appeared on the Respondent's behalf.

However, the fact remains that the Respondent was twice convicted of crimes that raise

serious questions concerning his honesty and integrity.

In 1992, he was convicted of failing to file a state tax return and was sentenced to thirty (30) days in the Albany County Jail and was fined Five Thousand (\$5,000) Dollars.

Apparently the Respondent did not learn anything from that sad episode, and in 1995 he was found guilty of two counts of Grand Larceny; eight counts of Offering a False Instrument for Filing in the First Degree; and one count of Tampering with Physical Evidence, all felonies.

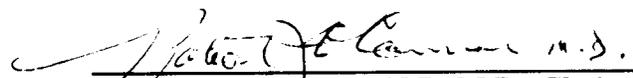
The Hearing Committee determines that the only appropriate penalty in this case is **REVOCATION.**

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: Staten Island, New York
August 21, 1997

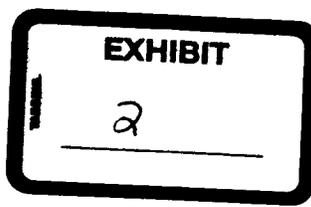

ROBERT J. O'CONNOR, M.D., Chairperon

RICHARD ASHLEY, M.D.
MR. DENNIS GARCIA

TO: Harvey Taubes, M.D.
1 Aspen Place
Great Neck, New York 11021-2810

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9 East 40th Street
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STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : STATEMENT
OF : OF
HARVEY TAUBES, M.D. : CHARGES

-----X

HARVEY TAUBES, M.D., the Respondent, was authorized to practice medicine in New York State on September 26, 1960, by the issuance of license number 084922 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 3, 1995, in the Supreme Court of The State of New York, County of Kings, New York State, the Respondent was found guilty of two counts of Grand Larceny In The Third Degree, Section 155.35 of the New York Penal Law, eighteen counts of Offering A False Instrument For Filing In The First Degree, Section 175.35 of the New York Penal Law, and one count of Tampering with Physical Evidence, Section 215.40 of the New York Penal Law, all felonies, all crimes, all with regard to his practice of medicine in New York State.

B. On or about September 18, 1992 in the Police Court, County of Albany, State of New York, the Respondent was found guilty of one count of Failing to File a Return or Report, Section 1801(a) of The New York Tax Law, a misdemeanor, a crime.

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530 (9)(a)(i) (McKinney Supp. 1997) by reason of having been convicted of committing acts constituting crimes under New York State law in that, Petitioner charges:

The facts in Paragraphs A and B.

DATED: *May 27*, 1997
Albany, New York

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