



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

September 29, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Barry C. Plunkett, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Division of Legal Affairs
Corning Tower Building Room 2509
Albany, New York 12237-0032

Daniel Holloway, M.D. A.K.A.
Mcdaniel Holloway, M.D.
c/o Melvin Holloway
18 Sherwood Road
Asheville, North Carolina 28803

Daniel Holloway, M.D. A.K.A.
Mcdaniel Holloway, M.D.
Apt. 101, 2399 Rue Duvernay,
Montreal, Quebec, Canada H3J 2U2

Daniel Holloway, M.D. A.K.A.
Mcdaniel Holloway, M.D.
Chez Ahmed Moustafa Yousif
20/25 Rue Jouvenet
Paris 75016 France

Daniel Holloway, M.D. A.K.A.
Mcdaniel Holloway, M.D.
18054 Forrer Street, #2601
Detroit, Michigan 48235

RE: In the Matter of Daniel Holloway, M.D. A.K.A. Mcdaniel Holloway, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.99-247) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

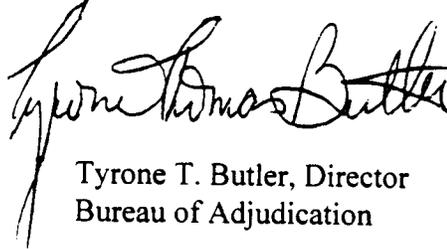
The notice of review served on the Administrative Review Board should be forwarded to:

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 and title.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mlk
Enclosure

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

COPY

IN THE MATTER
OF
DANIEL HOLLOWAY
A.K.A.
MCDANIEL HOLLOWAY

DETERMINATION

AND

ORDER

ORDER#99-247

The undersigned Hearing Committee consisting of **THERESE BRIGGS, M.D.,** Chairperson, **MARGERY SMITH, M.D.** **JAMES MILSTEIN, J.D.,** was duly designated and appointed by the State Board for Professional Medical Conduct.

JONATHAN M. BRANDES, ESQ., Administrative Law Judge, served as Administrative Officer.

The hearing was conducted pursuant to the provisions of Section 230(10) of the New York State Public Health Law and Sections 301-307 and 401 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of provisions of Section 6530 of the New York Education Law by **DANIEL HOLLOWAY, M.D.** A.K.A. **MCDANIEL HOLLOWAY, M.D.**(hereinafter referred to as "Respondent").

Witnesses were sworn or affirmed and examined. A stenographic record of the hearing was made. Exhibits were received in evidence and made a part of the record. The Committee has considered the entire record in the above captioned matter and hereby renders its decision.

RECORD OF PROCEEDING

| | | |
|--|--|-------------------------------------|
| Notice of Hearing/ Statement of Charges Dated/ Served | Dated: July 7, 1999 | Served: July 14, 1999 |
| Notice of Hearing returnable: | September 9, 1999 | |
| Committee Decision Regarding Imminent Danger Dated | N/A | |
| Location of Hearing: | Troy, New York | |
| Respondent's answer dated / served: | Default | |
| The State Board for Professional Medical Conduct (hereinafter referred to as "Petitioner" or "The State") appeared by: | HENRY M. GREENBERG, ESQ. General Counsel by BARRY C. PLUNKETT, ESQ. Associate Counsel Bureau of Professional Medical Conduct Albany, New York | |
| Respondent did not appear in person nor was he represented by counsel: | Default | |
| Respondent's present address ¹ : | Apt. 101, 2399 Rue Duvernay, Montreal, Quebec, Canada H3J 2U2 Chez Ahmed Moustafa Yousif 20/25 Rue Jouvenet Paris 75016 France | |
| Respondent's License: | Number: 162437 | Registration Date: June 17, 1985 |
| Pre-Hearing Conference Held: | September 9, 1999 | |
| Hearings held on: | September 9, 1999 | |
| Conferences held on: | N/A | |
| Closing briefs received: | N/A | |
| Record closed: | September 9, 1999 | |
| Date of Deliberation Scheduled / Held | September 9, 1999 | September 9, 1999 |

¹As will be set forth in more detail later in this decision, Respondent's actual whereabouts are not known.

SUMMARY OF PROCEEDINGS

The Statement of Charges in this proceeding alleges two grounds of misconduct:

1. Respondent has committed professional misconduct by reason of his failing to comply with any agreement entered into to aid his medical education as set forth in N.Y. Education Law Section 6530 (42).
2. Respondent has committed professional misconduct by reason of his failing to notify the N.Y. Education Department of any change or changes of his mailing / registered address, as set forth in N.Y. Education Law Section 6530 (5)

The allegations arise from a dispute between Respondent and the National Health Service Corps (NHSC) Scholarship Program. This matter does not concern patient care. The allegations are more particularly set forth in the Statement of Charges which is attached hereto as Appendix One.

Petitioner called one witness:

MICHAEL J. WARING, Senior Investigator, NYS Office For Professional Medical Conduct.

Respondent did not appear. He did send documents. The documents were considered by the Administrative Law Judge (see Ex. 33).

SIGNIFICANT LEGAL RULINGS:

The State established jurisdiction over Respondent upon delivery of the Notice of Hearing and Statement of charges by certified mail. (Ex. 4) The State performed far more than was required by statute by attempting personal service and service by certified mail at several additional addresses. (Ex. 2 through 20). In a letter dated August 1, 1999, Respondent admitted actual notice of these proceedings (Ex. 33). Based upon the diligent attempts by the State to notify Respondent of these proceedings, the Administrative Law Judge found the State had obtained jurisdiction over Respondent.

Respondent also requested an adjournment in his letter of August 1 to some unspecified date in the future when he might be in the United States. This request for adjournment was denied as non-specific and unwarranted by the facts presented in the request. Having failed to obtain an adjournment and having failed to appear at the hearing, the Administrative Law Judge found Respondent in default.

FINDINGS OF FACT

The findings of fact which follow, were made after review of the entire record. References to transcript pages (Tr. __) and/or exhibits (Ex. __) denote evidence that was found persuasive in determining a particular finding. Evidence or testimony which conflicted with any finding of this Hearing Committee was considered and rejected. Some evidence and testimony was rejected as irrelevant. All findings of fact made by the Hearing Committee were established

by at least a preponderance of the evidence. Unless otherwise stated, all findings and conclusions herein were unanimous.

1. **DANIEL HOLLOWAY, M.D. (A.K.A. MCDANIEL HOLLOWAY, M.D.,** hereinafter referred to as Respondent), was authorized to practice medicine in New York State on June 17, 1985, by the issuance of license number 162437 by the New York State Education Department. (Ex 27)
2. Respondent is currently registered with the New York State Education Department to practice medicine. (Ex 27)
3. At his last registration, Respondent reported his address as Apt. 101, 2399 Rue Duvernay, Montreal, Quebec, Canada H3J 2U2. Since his last registration there are other addresses at which he was reported to reside. These are:

18054 Forrer Street, #2601, Detroit, Michigan 48235,
20/25 Rue Jouvenet, Paris, France 75016
c/o Melvin Holloway (Respondent's Father), 18 Sherwood Road,
Asheville, North Carolina 28803. (Ex. 2 through 20)
4. Respondent received three (3) years of scholarship support from July 1, 1980 to June 30, 1983, under the National Health Service Corps (NHSC) Scholarship Program, 42 U.S.C. 2541 et. sec., in order to aid his medical education while attending medical school at East Carolina University. (Ex. 24)

5. Respondent agreed to satisfy his debt obligation under the NHSC Scholarship Program by either repaying the value of the three (3) years of scholarship support or in the alternative, upon his graduation from medical school, to complete a three (3) year NHSC Scholarship Program service obligation. (Ex. 24)
6. Respondent, was granted a conditional deferment of his three (3) year NHSC Scholarship Program service obligation.
7. As of the date of this proceeding, Respondent has not repaid the loan, nor has he performed his program service obligation arising from the National Health Service Corps (NHSC) Scholarship Program.
8. On October 16, 1984 Respondent was placed in default of his NHSC Scholarship Program service obligation..
9. On February 9, 1994, in Superior court, Province of Quebec, District of Montreal, a default judgment for Respondent's failure to repay his debt obligation under the NHSC Scholarship Program was entered against him in the amount of \$236,219.22, together with interests at the rate of 5% per annum since October 25, 1991, plus the additional indemnity and court costs as per Article 1078.1 of the Civil Code of Lower Canada. (Ex. 24, 26)
10. The total amount of the Judgment, plus interest entered against Respondent was the sum of \$265,887.68. (Ex. 24, 26)

11. This Judgment was duly docketed on February 26, 1997, in the U.S. District Court for the Western District of North Carolina. (Ex. 24, 26)
12. Respondent has failed to repay and/or make any arrangements to repay the National Health Service Corps (NHSC) on the amount he owes under his NHSC Scholarship Program indebtedness and the aforesaid judgment debt. and he has not satisfied his NHSC Scholarship Program judgment debt through service. (Ex. 24, 26)
13. On August 7, 1997, a demand was made for repayment of the NHSC indebtedness. Respondent was informed that the failure to repay or serve would result in the referral of Respondent's case to the Office of the Inspector General to initiate exclusion proceedings against Respondent from Medicare/Medicaid health care programs. This letter was sent to Respondent c/o of Melvin Holloway (Debtors Father) at 18 Sherwood Road, Asheville, North Carolina 28803 (Ex. 24, 26)
14. Respondent, to date, owes the NHSC in excess of \$265,887.68. This amount includes interest, costs and penalties. (Ex. 24, 26)
15. On November 19, 1998 Respondent was excluded from participation in Medicare and Medicaid health programs based upon his default. (Ex. 24, 26)

16. Section 6502(5) of the New York Education Law. Respondent requires all physicians to notify the New York State Education Department of any change in his registered mailing address.
17. Respondent has had several mailing addresses since his last report to the Education Department. He has not notified the Education Department of any change.

CONCLUSIONS

The State has proven beyond a preponderance of the evidence that Respondent received a NHSC loan to obtain his medical education. The State has also shown Respondent has failed either to pay back the proceeds or accept work as prescribed by NHSC. Respondent has been found in default of his loan in both the United States and Canada. Therefore, the State has established the underlying facts in this case.

Having sustained the factual allegations upon which the specifications are based, the Committee now turns its attention to whether the facts support a finding of misconduct under the Education Law. Neither specification in this proceeding allows for interpretive differences. In the First Specification, Respondent is charged with failure to comply with any agreement entered into to aid his medical education. Clearly, Respondent received funds from NHSC to pay for his medical education. It is equally clear he has failed repay his debt and has failed to accept positions offered him by NHSC which would have paid his debt. The State has therefore shown that Respondent has violated Section 6530 (42) of the N.Y. Education Law.

In the Second Specification, Respondent is charged with failing to notify the N.Y. Education Department of a change of address. In Exhibit 33, a letter from Respondent dated August 1, 1999, Respondent all but admits this charge by giving an address in France for replies directed to him. While Respondent indicates he is not necessarily living in France, He certainly admits he is no longer receiving mail at his registration address in Quebec. He has made no effort to inform the Education Department, as required by law. Therefore, the Committee finds Respondent has violated Section 6530(5) of the N.Y. Education Law.

Therefore:

The First Specification is SUSTAINED

The Second Specification is SUSTAINED

CONCLUSIONS **WITH REGARD TO** **PENALTY**

The Committee now turns its attention to penalty. The purpose of a penalty in a proceeding before the Board For Professional Medical Conduct is twofold: First, it must punish a Respondent for unacceptable behavior. Second it must be designed to act as a deterrent to others as well as an expression of the position of the Board with regard to the facts adduced.

Respondent herein has shown an unmistakable pattern of cavalier disregard for basic tenets of medical responsibility. When he received government funds for his medical education, he did so subject to an agreement that he would repay the amount. The purpose of the agreement was so that other medical students would have access to the benefit or, in the alternative, he would perform services to the medical profession. He has not made any realistic effort to abide by that agreement. A review of the communications between Respondent and the U.S.

Department of Health and Human Services, shows a pattern of specious excuses for his failure to accept reasonable employment opportunities.

Indeed, the U.S. Department of Health and Human Services has shown a definite effort to accommodate Respondent. Respondent has reacted to this magnanimity by being obfuscatory at every turn. Respondent has demonstrated a pattern of evasion and dishonesty. His actions cause this Committee to have grave doubts about his ability to practice medicine according to the level of trust bestowed upon all physicians in this state by virtue of their licensure as physicians.

There is an arrogance in his failure to inform both the state and federal governments of his actual address. As late as the date of this proceeding, Respondent gave an address for mail but indicated he did not actually reside at that address (see Ex. 33). Respondent has apparently concluded that the rules by which other physicians in this state are required to practice do not apply to him.

Under the above circumstances, revocation is the only appropriate option available. Respondent must be punished for his contempt and a message must be sent by this Board that such arrogance and contempt will not be tolerated.

ORDER

WHEREFORE, Based upon the foregoing facts and conclusions,

It is hereby **ORDERED** that:

1. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

2. The license of Respondent to practice medicine in the State of New York is **REVOKED**;

Furthermore, it is hereby **ORDERED** that;

3. This order shall take effect **UPON RECEIPT** or **SEVEN (7) DAYS** after mailing of this order by Certified Mail to the address reported in his last registration with the Education Department of the State of New York.

Dated:
Albany, New York

September 24 1999



THERESE BRIGGS, M.D., Chairperson

MARGERY SMITH, M.D.
JAMES MILSTEIN, J.D.

To:

BARRY C. PLUNKETT, ESQ.
Associate Counsel
Bureau of Professional Medical Conduct
Division of Legal Affairs
Corning Tower Building Room 2509
Albany, New York 12237-0032

**DANIEL HOLLOWAY, M.D. A.K.A.
MCDANIEL HOLLOWAY, M.D.**
Apt. 101, 2399 Rue Duvernay,
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MCDANIEL HOLLOWAY, M.D.**
c/o Melvin Holloway
18 Sherwood Road
Asheville, North Carolina 28803

**DANIEL HOLLOWAY, M.D. A.K.A.
MCDANIEL HOLLOWAY, M.D.** --
18054 Forrer Street, #2601
Detroit, Michigan 48235

APPENDIX ONE

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

-----X

IN THE MATTER : STATEMENT
OF : OF
DANIEL HOLLOWAY, M.D. : CHARGES
A.K.A. MCDANIEL HOLLOWAY, M.D. :
:

-----X

DANIEL HOLLOWAY, M.D. (A.K.A. MCDANIEL HOLLOWAY, M.D.), was authorized to practice medicine in New York State on June 17, 1985, by the issuance of license number 162437 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine. His registered addresses with the New York State Education Department is: Apt. 101, 2399 Rue Duvernay, Montreal, Quebec, Canada H3J 2U2, and other addresses at which contact with him were attempted are: 18054 Forrer Street, #2601, Detroit, Michigan 48235, 20/25 Rue Jouvenet, Paris, France 75016, and c/o Melvin Holloway (Respondent's Father), 18 Sherwood Road, Asheville, North Carolina 28803.

FACTUAL ALLEGATIONS

1. Respondent received three (3) years of scholarship support from July 1, 1980 to June 30, 1983, under the National Health Service Corps (NHSC) Scholarship Program, 42 U.S.C. 2541 et. seq., in order to aid his medical education while attending medical school at East Carolina University.

2. Respondent agreed to satisfy his debt obligation under the NHSC Scholarship Program by either repaying the value of the three (3) years of scholarship support or in the alternative, upon his graduation from medical school, to complete a three (3) year NHSC Scholarship Program service obligation.
3. Respondent failed to comply with his agreement to repay the three (3) years scholarship support he received under the National Health Service Corps (NHSC) Scholarship Program.
4. Respondent has not performed, to date, his program service obligation, even after being granted a conditional deferment of his three (3) year NHSC Scholarship Program service obligation. He was placed in default of his NHSC Scholarship Program service obligation on October 16, 1984. Annexed hereto as Exhibit "A" is a copy of the letter of Elizabeth A. Austin, Attorney Advisor, Public Health Division, U.S. Department of Health and Human Services, dated November 5, 1996, and sent to Clifford Marshall, Esq., Assistant U.S. Attorney, Western District of North Carolina, providing complete referral information on Respondent's debt (judgment) obligation.
5. On February 9, 1994, in Superior court, Province of Quebec, District of Montreal, a default judgment for Respondent's failure to repay his debt obligation under the NHSC Scholarship Program was entered against him in the amount of

\$236,219.22, together with interests at the rate of 5% per annum since October 25, 1991, plus the additional indemnity and court costs as per Article 1078.1 of the Civil Code of Lower Canada. Annexed hereto as Exhibit "B" is a copy of the Judgment, together with a translation of said Judgment and the Affidavit of the translator, J. Brian Riordan, solemnly declared to on September 26, 1996.

6. That the total amount of the Judgment, plus interest entered against Respondent was the sum of \$265,887.68 and said Judgment was duly docketed on February 26, 1997, in the U.S. District Court for the Western District of North Carolina. Annexed hereto as Exhibit "C" is a copy of the Abstract of Judgment certified August 15, 1997, by the Clerk of this Court.

7. Respondent has failed to repay and/or make any arrangements to repay the National Health Service Corps (NHSC) on the amount he owes under his NHSC Scholarship Program indebtedness and the aforesaid judgment debt and he has not satisfied his NHSC Scholarship Program judgment debt through service. Annexed hereto as Exhibit "D" is the letter of William M. Darracott, Chief Debt Servicing Section, Debt Managing Branch, Division of Financial Operations, U.S. Department of Health and Human Services, dated August 7, 1997, sent to Respondent c/o of Melvin Holloway (Debtors Father) at 18 Sherwood Road, Asheville, North Carolina 28803, setting forth a demand for repayment of the National

Health Services Corps indebtedness or in the alternative the referral of Respondent's case to the Office of the Inspector General to initiate exclusion proceedings against Respondent from Medicare/Medicaid health care programs.

8. Respondent, to date, with interest and/or costs and/or penalties, owes the National Health Service Corps (NHSC) in excess of \$265,887.68; has not fulfilled the terms of his agreement with the National Health Service Corps to serve a period of three (3) years; has been excluded from participation in Medicare/Medicaid health programs as of November 19, 1998 for default of a Health Education Loan or Scholarship Obligations based on an action by the U.S. Health and Human Services Office of the Inspector General.
9. Respondent has not notified the New York State Education Department of the change of his registered mailing address with the Department at Apt. 101, 2399 Rue Duvernay, Montreal, Quebec, Canada H3J 2U2 to his new mailing address at 20/25 Rue Jouvenet, Paris, France 75015-6 within 30 days of such change and has failed to provide such notice within 180 days of such change, nor has he provided notice of any further subsequent changes of his mailing address that may have occurred to the present time, all pursuant to §6502(5) of the New York Education Law.

SPECIFICATIONS

FIRST SPECIFICATION

Respondent is charged with professional medical misconduct under N.Y. Education Law §6530(42) by reason of his failing to comply with any agreement entered into to aid his medical education, in that Petitioner charges:

1. The facts in Paragraphs 1, 2, 3, 4, 5, 6, 7, and/or 8.

SECOND SPECIFICATION

Respondent is charged with professional medical misconduct under N.Y. Education Law §6502(5) by reason of his failing to notify the N.Y. Education Department of any change or changes of his mailing/registered address, in that Petitioner charges:

2. The facts in Paragraph 9.

DATED: *July 7*, 1999
Albany, New York


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