



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

April 27, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Robert Bogan, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180-2299

Paul Kanakaraj, M.D.
1944 Timber Lane
Fremont, Ohio 43420

Paul Kanakaraj, M.D.
2575 West Hayes Avenue
Suite #5
Fremont, Ohio 43420

RE: In the Matter of Paul Kanakaraj, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 01-103) 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

COPY

IN THE MATTER
OF
PAUL KANAKARAJ, M.D.

DETERMINATION

AND

ORDER

BPMC #01-103

A Notice of Referral Proceeding and Statement of Charges, both dated March 16, 2001, were served upon the Respondent, **PAUL KANAKARAJ**. **PETER KANE, M.D.**, Chairperson, **SHELDON GAYLIN, M.D.** and **MR. JAMES DUCEY**, 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 April 18, 2001, at The Best Western Rensselaer Inn, 1800 6th Avenue, 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.

On that date, evidence was received and transcripts of these proceedings were made, and the Hearing Committee conducted its deliberations.

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 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, specifically, 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:	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 transcript page numbers or exhibits, denoted by the prefixes "Tr." and "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. **PAUL KANAKARAJ, M.D.**, the Respondent, was authorized to practice medicine in New York State on February 10, 1978, by the issuance of license number 133611 by the New York State Education Department (Ex. 4).
2. On July 15, 1994, in the United States District Court, Northern District of Ohio, Western Division, Respondent entered a plea of guilty to a charge of Failure to File a Federal Income Tax Return for the year 1989, in violation of Title 26, United States Code, Section 7203. On September 16, 1994, Respondent was sentenced, and re-sentenced on October 5, 1994, to three (3) years probation, payment of a \$25.00 special assessment, and reimbursement of the Federal Government for the cost of prosecution. Respondent's Plea Agreement required him to file all delinquent tax returns and to file all back taxes owed (Ex. 6).

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that Respondent's conviction the Federal crime of Failure to File a Federal Income Tax Return constitutes misconduct under the laws of New York State, pursuant to New York Education Law §6530(9)((a)(ii).

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

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

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that on July 15, 1994, in the United States District Court, Northern District of Ohio, Western Division, Respondent entered a plea of guilty to a charge of Failure to File a Federal Income Tax Return for the year 1989, in violation of Title 26, United States Code, Section 7203. Respondent's conviction constitutes Professional Misconduct pursuant to New York Education Law §6530(9)(a)(ii).

The only issue to be addressed in this decision is the penalty to be imposed for this violation. After careful consideration, the Hearing Committee has determined that no penalty should be imposed, and that Respondent's licensure in New York should have no action taken against it. This determination was predicated upon the following factors:

- The acts that led to Respondent's criminal conviction were unrelated to his provision of medical care;
- The criminal conviction occurred over six years prior to the instant proceeding, and there is no evidence that Respondent has not satisfied all of the conditions of his sentencing and plea agreement;
- The acts leading to Respondent's conviction for failure to file a tax return did not involve moral turpitude or fraud;

- As far as this record reveals, Respondent has had no subsequent difficulties with any tax or licensing authorities;
- Respondent had no action taken against his license by his home state of Ohio; and
- The criminal conviction came to the attention of the Department after Respondent himself reported it to the New York State Education Department upon application to reactivate his New York State license to practice medicine.

The Committee feels that no revocation or suspension of Respondent's license is called for in this situation, and that the Respondent's experience with the criminal justice system should, itself, be an ample deterrent to future non-compliance with applicable legal mandates.

ORDER

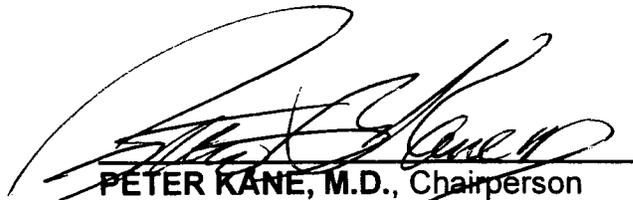
IT IS HEREBY ORDERED THAT:

- 1). No action should be taken against Respondent's New York State medical license based on his conviction of Failure to File a Federal Income Tax Return, and no other penalty should be imposed.

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: Cazenovia, New York

4/23, 2001


PETER KANE, M.D., Chairperson
SHELDON GAYLIN, M.D.
MR. JAMES DUCEY

TO:

Paul Kanakaraj, M.D.
1944 Timber Lane
Fremont, OH 43420

Mr. Robert Bogan, Esq.
New York State Department of Health
Office of Professional Medical Conduct
433 River St., Suite 303
Troy, New York 12180-2299

APPENDIX 1

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

IN THE MATTER

OF

PAUL KANAKARAJ, M.D.
CO-00-11-5322-A

NOTICE OF
REFERRAL
PROCEEDING

TO: PAUL KANAKARAJ, M.D.
1944 Timber Lane
Fremont, OH 43420

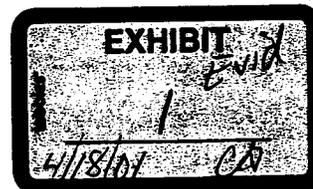
PAUL KANAKARAJ, M.D.
2575 West Hayes Avenue
Suite #5
Fremont, OH 43420

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 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 April 2001, 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. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before April 9, 2001.

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 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 April 9, 2001, 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
March 16, 2001



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) 402-0820

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

IN THE MATTER
OF
PAUL KANAKARAJ, M.D.
CO-00-11-5322-A

STATEMENT
OF
CHARGES

PAUL KANAKARAJ, M.D., the Respondent, was authorized to practice medicine in New York state on February 10, 1978, by the issuance of license number 133611 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On July 15, 1994, in the United States District Court, Northern District of Ohio, Western Division, Respondent was found guilty of Failure to File Federal Income Tax Return in violation of Title 26, United States Code, Section 7203, and on September 16, 1994, was sentenced and re-sentenced on October 5, 1994, to three (3) years probation, to pay a \$25.00 special assessment, and to reimburse the Federal Government for the cost of prosecution.

SPECIFICATION

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

1. The facts in paragraph A.

DATED: *March 16*, 2001
Albany, New York


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