



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

*Public*

Dennis P. Whalen  
Executive Deputy Commissioner

January 3, 2006

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jude Thaddeus Barbera, M.D.  
1156 E. 67<sup>th</sup> Street, 3D  
New York, New York 10021

Jude Thaddeus Barbera, M.D.  
3632 Nostrand Avenue  
Brooklyn, New York 11229

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

Andrew Greene, Esq.  
Greene & Zimmer  
202 Mamaroneck Avenue  
White Plains, New York 10601

**RE: In the Matter of Jude Thaddeus Barbera, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 06-01) 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 Respondent 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 cursive script that reads "Sean D. O'Brien". The signature is written in dark ink and is positioned above the printed name of the signatory.

Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:djh

Enclosure

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

COPY

IN THE MATTER  
OF  
JUDE THADDEUS BARBERA, M.D.

DETERMINATION

AND

ORDER

BPMC No. 06-01

A hearing was held on December 21, 2005, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated December 8, 2005, were served upon the Respondent, **Jude Thaddeus Barbera, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Peter B. Kane, M.D.**, Chairperson, **Scott Groudine, M.D.**, and **William W. Walence, Ph.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent appeared at the hearing and was represented by Greene & Zinner, **Andrew Greene, 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.

**BACKGROUND**

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when 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 State 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 Section 6530(9)(a)(ii). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

#### **WITNESSES**

For the Petitioner:

None

For the Respondent:

Joseph Cunningham, Jr., M.D.  
Jude Barbera, M.D.  
Kenneth Evans, Esq.  
Anthony Acinapura, M.D.  
Nachum Katlowitz, M.D.  
Catherine Marino, M.D.

#### **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.

1. Jude Thaddeus Barbera, M.D., the Respondent, was authorized to practice medicine in New York State on February 2, 1988, by the issuance of license number 173570 by the New York State Education Department (Petitioner's Ex. 4).

2. On October 20, 2005, in the United States District Court, Southern District of New York, the Respondent was found guilty of eleven felony counts: one count of Conspiracy to Submit False Income Tax Returns (18 U.S.C. Section 371), five counts of Aiding and Assisting the Preparation of False Income Tax Returns (26 U.S.C. Section 7206[2]), one count of Conspiracy to Commit Health Care Fraud (18 U.S.C. Section 371), one count of Theft From Employee Benefit Plan (18 U.S.C. Section 664), one count of False Statements Relating to Health Care (18 U.S.C. Section 1035), one count of Mail Fraud (18 U.S.C. Section 1341), and one count of Health Care Fraud (18 U.S.C. Section 1347). The Respondent was sentenced to six months imprisonment, three years supervised release following his prison term, a \$20,000.00 fine, a \$1,100.00 assessment, and \$30,048.69 restitution (Petitioner Exhibit 5).

### **VOTE OF THE HEARING COMMITTEE**

#### **SPECIFICATION**

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

VOTE: Sustained (3-0)

### **HEARING COMMITTEE DETERMINATION**

The Respondent's criminal conviction for eleven felony counts arose from actions taken from 1995 through 2000. In 1995, at the request of Mr. Thomas Gelardo, the Respondent placed Mr. Gelardo on the payroll of the Respondent's medical practice. The understanding, however, was that Mr. Gelardo would not be a real employee. In other words, he would have a "no show" job. Mr. Gelardo, an alleged member of the Luchese crime family, needed to appear to have a legitimate job. This arrangement continued for five years. The Respondent's practice took a deduction on its income tax returns for the salary paid to Mr. Gelardo, thereby reducing the Respondent's income taxes. Since Mr.

Gelardo was not a real employee, his salary was not a deductible expense. These deductions were the basis for several of the counts for which the Respondent was convicted.

The Respondent also included Mr. Gelardo in a union administered health insurance plan that covered his employees. This plan was legally available only to legitimate employees. Mr. Gelardo and his daughter illegally received benefits from this plan on three occasions. This was the basis for the remainder of the counts for which the Respondent was convicted.

The Petitioner recommended that the Respondent's license to practice medicine be revoked. This Hearing Committee understands that felonies are a serious matter and that this case involves several felonies committed over a period of five years. Nonetheless, for the reasons listed below, we conclude that a revocation is an unnecessarily severe penalty. Instead, a suspension of the Respondent's license for six months will be imposed, as will a censure and reprimand.

One reason for our decision to impose a suspension rather than a revocation is the quality of the medical care that the Respondent has provided his patients. The Respondent is a specialist in urology who performs surgery in that field. The Respondent's witnesses testified impressively and persuasively about the Respondent's exemplary career. They provided many examples both of his skill and of his selfless dedication to his patients.

Dr. Cunningham, the Chairman of the Surgery Department and the Chief of Cardiac Surgery at Maimonides Medical Center, testified that the Respondent's treatment of patients was "almost legendary." He stated that the Respondent puts treating the patient ahead of making money. He testified that the Respondent treats the whole patient and spends a great amount of time with his patients. Dr. Cunningham testified that when his

father-in-law, who resided in Florida, needed surgery, Dr. Cunningham arranged for his father-in-law to come to New York for surgery by the Respondent, the reason being Dr. Cunningham's high regard for the Respondent's skills.

Dr. Acinapura, the Chairman of the Surgery Department at Lutheran Medical Center, testified that he has a very high opinion of the Respondent as a surgeon and as a person. He has referred many patients to the Respondent and testified that they returned with praise for the Respondent. Dr. Acinapura testified to many acts of selflessness and generosity for underprivileged patients.

Dr. Katlowitz, the Director of Urology at Staten Island University Hospital, testified that he has known the Respondent since 1986 and that during that time the Respondent has always been familiar with all the "cutting edge" techniques in his specialty. When Dr. Katlowitz covered for the Respondent during the Respondent's vacation, the Respondent called him repeatedly to check on the condition of his patients. Dr. Katlowitz testified that the Respondent possesses a rare combination of superior medical skill and compassion for his patients.

Dr. Marino, the Chief Medical Officer of Magnacare and also the Respondent's cousin, testified that she has referred patients to the Respondent and that they have returned praising him. She has heard other physicians praise his medical skills and recounted his charitable nature when treating underprivileged patients.

Kenneth Evans, Esq., a community health care consultant and a member of the Board of Directors of the Urban League and of NAACP, testified to community service and charitable work performed by the Respondent over the last seventeen years. He testified to a series of prostate screenings and educational programs conducted by the Respondent at black churches since the early 1990s. Mr. Evans testified that he can rely on the Respondent to help with a medical problem experienced by a member of Mr.

Evans' community, even if he calls the Respondent at 2:00 A.M. Mr. Evans testified that during the seventeen years that he has known the Respondent, he has been an asset to the black community and has lived up to every commitment that he has made to Mr. Evans.

The praise of these witnesses was effusive, credible and persuasive. During the hearing, the Petitioner's attorney acknowledged that the quality of medical care provided by the Respondent was "first class." His skill and his dedication to his patients, and, in particular, his charitable medical care for underprivileged patients, are exemplary. Since the Respondent practices medicine in an underserved area of Brooklyn, it should not be assumed that an adequate source of medical care in the field of urology would be available if the Respondent's license is revoked.

Another factor in the Respondent's favor is the nature of his crime. It was not related to patient care. Although it undeniably was criminal conduct, it had no direct or indirect effect on any patient. Also, there was no profit to the Respondent from the crime, nor was there any potential for profit. The amount of salary paid to Mr. Gelardo and the premiums paid by the Respondent to the health insurance company far outweighed the income taxes saved by the Respondent for the illegal deduction.

The Respondent has dedicated himself to community service. In addition to the prostate screenings and education in black neighborhoods described by Mr. Evans, the Respondent has been in charge of an annual fundraiser for the St. Jude Children's Research Hospital. These fundraisers have raised several million dollars for the hospital.

An important factor in this Hearing Committee's determination that a license revocation is unnecessary is our conclusion, after hearing the Respondent's testimony, that he will not repeat his crime. He understands what he did wrong and takes full

responsibility for his actions. His experience with the criminal law process has left an indelible impression and a dedication to never repeat that experience.

We conclude that a six-month suspension of the Respondent's license plus a censure and reprimand are sufficient penalties for the circumstances of this case. The Respondent's prison term is scheduled to begin in early January of 2006. The suspension will commence on the same date.

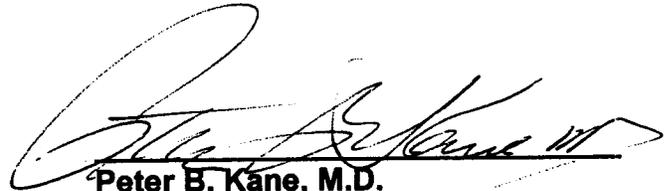
**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine is suspended for six months, the suspension to commence on the date that the Respondent's imprisonment begins.
2. The Respondent is censured and reprimanded for his criminal conduct.
3. This Order shall be effective upon service on the Respondent or his attorney in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Cazenovia, New York**

12/29, 2005



**Peter B. Kane, M.D.  
Chairperson**

**Scott Groudine, M.D.  
William W. Walence, Ph.D.**

# APPENDIX 1



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IN THE MATTER

NOTICE OF

OF

REFERRAL

JUDE THADDEUS BARBERA, MD  
CO-04-08-3997A

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PROCEEDING

**TO:** JUDE THADDEUS BARBERA, MD  
1156 E 67<sup>th</sup> Street, 3D  
New York, NY 10021

JUDE THADDEUS BARBERA, MD  
3632 Nostrand Avenue  
Brooklyn, NY 11229

**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 19<sup>th</sup> day of January 2006, at 10:00 in the forenoon of that day at the Hedley Park Place, 5<sup>th</sup> 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, 5<sup>th</sup> 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 January 9, 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 January 9, 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

*December 8*, 2005



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

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IN THE MATTER  
OF  
JUDE THADDEUS BARBERA, M.D.  
CO-04-08-3997-A

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STATEMENT  
OF  
CHARGES

JUDE THADDEUS BARBERA, M.D., the Respondent, was authorized to practice medicine as a Physician in New York state on February 20, 1988, by the issuance of license number 173570 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about October 20, 2005, in the United States District Court, Southern District of New York, Respondent was found guilty, of one (1) count of 18 U.S.C. 371, Conspiracy to Submit False Income Tax Returns; five (5) counts of 26 U.S.C. 7206(2), Aiding and Assisting the Preparation of False Income Tax Return; one (1) count of 18 U.S.C. 371, Conspiracy to Commit Health Care Fraud; one (1) count of 18 U.S.C. 664, Theft From Employee Benefit Plan; one (1) count of 18 U.S.C. 1035, False Statements Relating to Health Care; one (1) count of 18 U.S.C. 1341, Mail Fraud; and one (1) count of 18 U.S.C. 1347, Health Care Fraud, all felonies, and was sentenced to six (6) months imprisonment, three (3) years supervised release upon release from imprisonment, a \$1,100.00 assessment, a \$20,000.00 fine, and \$30,048.69 restitution.

**SPECIFICATION**

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

1. The facts in Paragraph A.

DATED: *Dec 8*, 2005  
Albany, New York

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

**SUMMARY OF DEPARTMENT OF HEALTH HEARING RULES**

**(Pursuant to Section 301 SAPA)**

The following items are addressed by the Uniform Hearing Procedures Rules of the New York State Department of Health:

**Applicability**

**Definitions**

**Notice of Hearing**

**Adjournment**

**Answer or Responsive Pleading**

**Amendment of Pleadings**

**Service of Papers**

**Discovery**

**Hearing Officer/Pre-Hearing Conference**

**Pre-Hearing Conference**

**Stipulations and Consent Orders**

**The Hearing**

**Hearing Officer's Report**

**Exceptions**

**Final Determination and Order**

**Waiver of Rules**

**Time Frames**

**Disqualification for Bias**

The exact wording of the rules is found at 10 NYCRR Part 51 Volume 10 of the New York Code of Rules and Regulations. Each of the above items may be summarized as following:

51.1 Applicability. These regulations apply to most hearings conducted by the Department of Health.

51.2 Definitions.

1. "Commissioner" means Commissioner of the New York State Department of Health.
2. "CPLR" means Civil Practice Law and Rules.
3. "Department" means New York State Department of Health.
4. "Hearing Officer" means the person appointed to preside at the hearing or the person designated as administrative officer pursuant to Public Health Law Section 230.
5. "Party" means all persons designated as petitioner, respondent or intervenor.
6. "Report" means the Hearing Officer's summary of the proceeding and written recommendation or the findings, conclusions and determination of the hearing committee pursuant to Public Health Law Section 230.

51.3 The Department's Notice of Hearing and/or Statement of Charges should be served at least 15 days prior to the first hearing date, specify time, place and date(s) and should contain the basis for the proceeding. Pursuant to Public Health Law §230, the Notice of Hearing must, additionally, specify that the licensee shall file a written answer.

51.4 Adjournment. Only the Hearing Officer may grant an adjournment and only after he/she has consulted with both parties. In hearings pursuant to Public Health Law Section 230, an adjournment on the initial day may be granted by the hearing committee.

51.5 Answer or Responsive Pleading. A party may serve a answer or response to the allegations of the Department. In matters governed by PHL §230, the licensee is required to file a written answer to each of the charges and allegations of the Department. Under the law, any charge or allegation which is not so answered shall be deemed admitted.

51.6 Amendment to Pleadings. A party may usually amend papers if no substantial prejudice results by leave of the Hearing Officer.

51.7 Service of Papers. Except for the Notice of Hearing and/or Statement of Charges, all papers may be served by ordinary mail.

51.8 Disclosure. Generally, there is no disclosure of any kind and the Hearing Officer cannot require it, unless all parties agree. If agreed to, the Hearing Officer will ensure all parties proceed in accordance with their agreement. However, in a hearing in which revocation of a license or permit is sought or possible, a party may demand in writing that another party disclose the names of witnesses, document or other evidence such other party intends to offer at the hearing. A demand for such disclosure must be served at least 10 days prior to the first scheduled hearing date. Disclosure or a statement that the party has nothing to disclose must be made at least 7 days before the first scheduled hearing date. A party that determines to present witnesses or evidence not previously disclosed must supplement its disclosure as soon as is practicable. The Hearing Officer may, upon good cause shown, modify the times for demands for and response to disclosure or allow a party not to disclose or limit, condition or regulate the use of information disclosed and may preclude the introduction of evidence not disclosed pursuant to a demand.

51.9 Hearing Officer. He/she presides over the hearing and has the authority to ensure it is conducted in an orderly fashion. He/she may also order the parties to meet before the hearing to discuss the procedure. He/she does not have the authority to remove testimony from the transcript and/or dismiss charges unless authorized by delegation.

51.10 Stipulation and Consent, and Surrender Orders. At any

time prior to a final order, parties may resolve all or any issues by stipulation. An order issued pursuant to a stipulation has the same force and effect as one issued after hearing.

51.11 The Hearing. A party may have an attorney represent him or her. Failure to appear may result in an adverse ruling. A hearing may be combined with or separated from another hearing depending on whether such action will result in delay, cost or prejudice. While the rules of evidence as applied in a courtroom are not observed, witnesses must be sworn or give an affirmation and each party has the right to present its case and to cross-examine. The Department has broad discretion to place documents into evidence. A record of the proceeding must be made. In enforcement cases, the Department has the burden of proof and of going forward. In matters relating to neglect or abuse of patients under Public Health Law Section 2803-d, the Hearing Officer may not compel disclosure of the identity of the person making the report or who provided information in the investigation of the report.

~~Complaints relating to Public Health Law Section 230 may not be introduced into evidence by either party and their production cannot be required by the Hearing Officer.~~

Claims that a hearing has been unreasonably delayed is treated as an affirmative defense (Section 51.5) or as part of the claimant's case. The burden of going forward and of proof are on the claimant.

A verbatim record of the proceeding shall be made by any means determined by the Department. The record shall include notice of hearing and any statement of charges, responsive pleadings, motions, rulings, transcript or recording, exhibits, stipulations, briefs, any objections filed, any decision, determination, opinion, order or report rendered.

51.12 Hearing Officer or Hearing Committee Report. The report or determination should be submitted within 60 days of completion of the hearing.

51.13 Filing of Exceptions. Within 30 days of the date of a copy of the report of the Hearing Officer and proposed order any party may submit exceptions to said report and proposed order

to the Supervising Administrative Law Judge. On notice of all parties, a party may request, before the expiration of the exception period, the Supervising Law Judge to extend the exception period. All parties have the opportunity to state their position on the extension on the record. Extensions may be granted on good cause shown; however, they are not granted to allow a party to respond to exceptions already filed. Pursuant to PHL 230(c), a notice of request for review of the Hearing Committee determination must be served upon the ARB within 14 days of service of the determination. All parties have 30 days thereafter to submit briefs and 7 days from service of a brief to submit a reply.

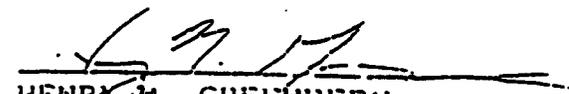
51.14 Final Determination Order. The hearing process ends when an order is issued by the Commissioner or his designee or the appropriate board of council. The order should state a basis for the decision. Each party receives a copy of the order.

51.15 Waiver of Rules. These rules and regulations may be dispensed with by agreement and/or consent.

~~51.16 Establishment, Construction, Rate Hearings.~~ Hearings involving any of these issues have time limits concerning the issuance of notices of hearing of 365 days of receipt by the Department of a request for hearing.

51.17 Disqualification for Bias. Bias shall disqualify a Hearing Officer and/or a committee member in hearings governed by Public Health Law Section 230. The party seeking disqualification must submit to the hearing officer an affidavit pursuant to SAPA Section 303. Mere allegations are insufficient. The Hearing Officer rules on the request.

DATED: Albany, New York  
March 10, 1997

  
HENRY M. GREENBERG  
General Counsel