



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Dennis P. Whalen
Executive Deputy Commissioner

May 5, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Anthony M. Benigno, Esq.
NYS Department of Health
Corning Tower Room 2503
Empire State Plaza
Albany, NY 12237

Ernest John Steinhilber, M.D.
103 Enclave Lane
St. Simon Island, GA 31522

RE: In the Matter Ernest John Steinhilber, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 99-92) 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.

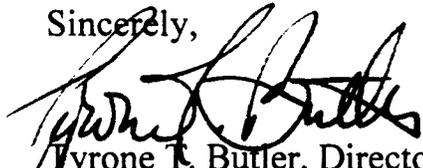
The notice of review served on the Administrative Review Board should be forwarded to:

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,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

IN THE MATTER

DETERMINATION

OF

AND

ERNEST JOHN STEINHIBLER, M.D.

ORDER

BPMC-99-92

A Notice of Referral Proceedings and Statement of Charges, both dated February 26, 1999 were served upon the Respondent, **ERNEST JOHN STEINHILBER, M.D.**

IRVING CAPLAN., Chairperson, **ANDREW MERRITT, M.D.** and **RICHARD KASULKE, M.D.**, 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on March 31, 1999, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ANTHONY M. BENIGNO, ESQ.**, of Counsel. The Respondent failed to appear.

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

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 unanimous unless otherwise stated.

1. Earnest John Steinhilber, M.D., the 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. (Pet's. Ex. 4)
2. On August 27, 1998, the State of Alaska, Department of Commerce and Economic Development, Medical Board, (hereinafter "Alaska Board") approved the Proposed Decision of a hearing officer, with regard to the Respondent, which was part of a Findings of Fact, Conclusions of Law and Proposed Decision, dated June 9, 1998. (Pet's. Ex. 5)

3. The Findings of Fact, Conclusion of Law and Proposed Decision (hereinafter “Alaska Proposed Decision”) recommended that the Respondent be issued an unrestricted license to practice medicine, and that before issuing said license, the Respondent be reprimanded and pay a fine of \$1,500. (Pet’s. Ex. 5).

4. The action by the Alaska Board was based on the Conclusion of Law in the Alaska Proposed Decision that the Respondent attempted to obtain a license through deceit, fraud, or intentional misrepresentation. The Alaska Proposed Decision found that the Respondent, on his application for a license to practice medicine in Alaska, dated March 13, 1997, “intentionally misrepresented those jurisdictions where he was licensed, the fact that he was the subject of a complaint and investigation in Massachusetts, and the fact that he had hospital privileges restricted.” (Pet’s. Ex. 5)

5. The conduct resulting in the Alaska Board’s disciplinary action against the Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State Law:
 1. N.Y. Education Law Section 6530(2) [practicing fraudulent].
 2. N.Y. Education Law Section 6530(21) [willfully making or filing a false report].

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

FIRST SPECIFICATION

Respondent is guilty of violating N.Y. Education Law §6530 (9)(b) by reason of 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.

SUSTAINED (3-0)

SECOND SPECIFICATION

Respondent is guilty of professional misconduct under N.Y. Education Law §6530(9)(d) by reason of his having had disciplinary action taken against him 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.

SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The State of Alaska gave the Respondent a full hearing regarding the charges against him and determined that he be reprimanded, that he pay a fine of One Thousand Five Hundred Dollars (\$1,500.00) and that he be issued an unrestricted license to practice medicine in that State.

The Hearing Committee is not aware of any evidence in the record that would suggest that it should consider imposing a more severe penalty on the Respondent than did the State of Alaska.

The Hearing Committee determines that the Respondent should be Censured and Reprimanded.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent is hereby Censured and Reprimanded.
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: Troy, New York
7-29 1999


IRVING CAPLAN
CHAIRMAN

ANDREW MERRITT, M.D.
RICHARD KASULKE, M.D.

APPENDIX ONE

PETITIONER'S
EXHIBIT

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

-----X
IN THE MATTER : NOTICE OF
OF : REFERRAL
ERNEST JOHN STEINHILBER, M.D. : PROCEEDING
-----X

TO: Ernest John Steinhilber, M.D.
103 Enclave Lane
St. Simon Island, GA 31522

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 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 31 day of March, 1999 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 Statement of Charges, which is attached. 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 which 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 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before March 24, 1999.

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 or 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 24, 1999 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 26, 1999

Peter D. Van Buren

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

Inquiries should be addressed to:

ROBERT BOGAN
Assistant Counsel
NYS Department of Health
Hedley Park Place
433 River Street, 4th Floor
Troy, New York 12180-2299
(518) 402-0820

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

-----X

IN THE MATTER : STATEMENT
OF : OF
ERNEST JOHN STEINHILBER, M.D. : CHARGES

-----X

Ernest John Steinhilber, M.D., the 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 August 27, 1998, the State of Alaska, Department of Commerce And Economic Development, Medical Board (hereinafter "Alaska Board") approved the Proposed Decision of the hearing officer which was part of a Findings of Fact, Conclusions of Law and Proposed Decision dated June 9, 1998, with regard to the Respondent.

B. The Findings of Fact, Conclusion of Law and Proposed Decision (hereinafter "Alaska Proposed Decision") referred to in paragraph A above recommended the Respondent be issued an unrestricted license to practice medicine and that before issuing the license the Respondent be reprimanded and pay a fine of \$1,500.

C. The action referred to in paragraph A and B above was predicated on the Conclusion of Law, in the Alaska Proposed Decision, that the Respondent attempted to obtain a license through deceit, fraud, or intentional misrepresentation. The Alaska Proposed Decision found that the Respondent, on his application for a license to practice medicine in Alaska dated March 13, 1997, "intentionally misrepresented those jurisdictions where he was licensed, the fact that he was the subject of a complaint and investigation in Massachusetts, and the fact that he had hospital privileges restricted."

D. The Conduct resulting in the Alaska Board's 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. N.Y. Education Law Section 6530(2) [practicing fraudulently]; and/or
2. N.Y. Education Law Section 6530(21) [willfully making or filing a false report].

SPECIFICATIONS

FIRST SPECIFICATION

Respondent is guilty of violating N.Y. Education Law § 6530(9)(b) by reason of 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 the Petitioner charges the following:

1. The facts in paragraphs A, B, C, and/or D.

SECOND SPECIFICATION

Respondent is guilty of professional misconduct under N.Y. Education Law § 6530 (9)(d) by reason of his having had disciplinary action taken against him 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 the Petitioner charges:

2. The facts in paragraphs A, B, C, and/or D.

DATED: *February 26*, 1999
Albany, New York

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