



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

Public

November 24, 2010

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

John Everett Crews, III, M.D.  
REDACTED

James W. Hyde, Esq.  
Law Offices of James E. Long, Esq.  
668 Central Avenue  
Albany, New York 12206

Michael G. Bass, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237

**RE: In the Matter of John Everett Crews, III, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 10-240) 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 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), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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,

REDACTED

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:cah  
Enclosure

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

COPY

IN THE MATTER  
OF  
JOHN EVERETT CREWS, III, M.D.

DETERMINATION

AND

ORDER

BPMC #10-240

A hearing was held on October 21, 2010, 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 May 14, 2010, were served upon the Respondent, **JOHN EVERETT CREWS, III, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Lyon M. Greenberg, M.D., Chair, Michael J. Reichgott, M.D, Ph.D., and, Gail S. Homick**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **Thomas G. Conway, Esq.**, General Counsel, by **Michael G. Bass, Esq.**, of Counsel. The Respondent, **JOHN EVERETT CREWS, III, M.D.**, did appear, with counsel, **Attorney James W. Hyde, IV, Esq.**, of Albany. 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 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 §6530(9)(b) and Education Law §6530(9)(d). 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:	John Everett Crews, III, 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. John Everett Crews, III, M.D., the Respondent, did appear at the hearing, with counsel. An affidavit of attempted service, dated June 11, 2010, was admitted at the hearing. (Petitioner's Exhibit 2.)
2. John Everett Crews, III, M.D., the Respondent, was authorized to practice medicine in New York State on June 23, 1998, by the issuance of license number 210944 by the New York State Education Department (Petitioner's Ex. 4).
3. On February 6, 2009, a Consent Order was issued by the Board of Medicine of the Commonwealth of Virginia, under License No. 0101-231001, which Order caused the Respondent's license to practice medicine to be suspended due to misconduct (Petitioner's Ex. 5).
4. The Virginia Board, in the Findings of Fact in this Consent Order, found the following charges affirmed against the Respondent:
  - a. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia Code, in that, for approximately three days beginning on or about April 4, 2005, he failed to appropriately evaluate Patient A for a possible perforated colon, and inappropriately planned treatment with percutaneous drainage.
  - b. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia Code, in his treatment of Patient B who, on or about August 5, 2005, was admitted by Dr. Crews with abdominal pain and superior mesenteric vein thrombosis. Specifically, on or about August 22, 2005, Dr. Crews inappropriately ordered Patient B's discharge without full anticoagulation and without consultation with the consultants.
  - c. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia

Code, in that, on or about June 19, 2006, he performed a laparoscopic appendectomy on Patient C, and negligently failed to excise an approximately 6.5 cm residual appendix stump. Further, Dr. Crews inaccurately stated in his operative report that he separated the appendix at its junction with the cecum.

- d. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia Code, in that, between approximately December 26, 2003 and December 29, 2003, he delayed treatment of a large abdominal abscess in patient D, an 85 year old female *fifteen* days post laparoscopic hernia repair.
- e. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia Code, in his treatment of Patient E, a 65 year old male who presented to him on or about July 18, 2005 with distension, abdominal pain and constipation. On or about July 21, 2005, Dr. Crews explored the colon and failed to detect the presence of a malignant colon mass. Further, Dr. Crews failed to note the significance of the report of malignant cells in the peritoneal fluid. Patient E was not seen on July 25, 2005, the date of discharge but was discharged by Dr. Crews' partner by telephone order. Patient F was readmitted on or about July 26, 2005, with the same symptoms and was subjected to a second surgery to resect the cancer.
- f. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia Code, in his treatment of Patient F, a 36 year-old female. Specifically on or about December 12, 2003, Dr. Crews performed an elective vertical banded gastroplasty on Patient F without having performed a proper preoperative evaluation. Further, between approximately December 14, 2003 and December 17, 2003, he failed to recognize and address the cause of Patient F's low blood pressure, fever, progressive tachycardia, low urine output and pulmonary

dysfunction.

- g. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia Code, in that on or about March 4, 2007, while on call for the Emergency Department at John Randolph Medical Center, he refused to come in when called by the emergency room physician to attend Patient G, diagnosed with a ruptured spleen. The Respondent questioned that physician's findings and hung up the telephone on her; necessitating calls to find an available surgeon and causing delay in treatment of the patient.
- h. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia Code, in that, on or about June 16, 2006, while on Emergency Room call for general surgery at Southside Regional Medical Center, he refused to come in to attend Patient H who presented with an anterior wall hernia with severe obstruction, causing a delay in treatment of the patient.
- i. The Respondent violated §§ 54.1-2915.A(3), (13) and (16) of the Virginia Code, in that, on or about June 6, 2005, during a laparoscopic cholecystectomy on Patient I, he failed to timely manage an injury to the patient's cystic artery- Further, Dr. Crews failed to truthfully or accurately disclose the complication to Patient I's family following surgery.

### VOTE OF THE HEARING COMMITTEE

#### FIRST SPECIFICATION

Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly

authorized 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 Respondent, by Consent Order, was found guilty of improper professional practice by the State Board of Medicine of the Commonwealth of Virginia.

**VOTE: Sustained (3-0)**

### **SECOND SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(d) by having his license suspended by the State Board of Medicine of the Commonwealth of Virginia 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.

**VOTE: Sustained (3-0)**

### **HEARING COMMITTEE DETERMINATION**

The Respondent did appear at the hearing with counsel. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Non-Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2), ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed, noting that counsel did not raise an objection to jurisdiction. (T. 7) It is noted that the Affidavit of non-service indicated nine attempts at service, with the process server being told by the Respondent's father that he resides in Philadelphia and not the address of



record in Virginia. It is noted that the Respondent did have actual notice and did request an adjournment, which was granted, and did eventually appear with counsel.

The record in this case indicates that Respondent's license to practice medicine was suspended in the Commonwealth of Virginia for misconduct. In his testimony before the panel the Respondent disputed the factual basis of the charges in Virginia and stated that he did not agree with the accuracy of the charges as stated. (T. 40) He stated that the charges were not accurate but that his Virginia lawyer advised him not to contest them as such a contest would be futile. (T.30) The Respondent went on to testify that he would not get a fair shake in Virginia because he was black. (T. 30).

The panel did not accept this line of argumentation and the Respondent was reminded that the evidence in a Direct Referral proceeding is limited to the nature and severity of the penalty to be imposed and if the Appellant wished to attack the underlying agreed facts, in the Consent Order already determined in Virginia, he would have to do so in Virginia as New York could not undo what has been agreed to by the Respondent in Virginia and New York will give full faith and credit to the actions of its sister state.

The Respondent testified that there has been a similar proceeding in Pennsylvania and offered into evidence an uncertified and unsigned copy of the Consent Agreement and Order entered into in Pennsylvania. (Respondent's Exhibit # A) This undated document indicates that Pennsylvania, based on the Virginia Order, Suspended the Respondent for one year and Stayed the Suspension in favor of a Probation to last at least one year. (See Respondent's Exhibit # A, page 5)

In his defense, Dr. Crews testified that all the patients complained of in the Virginia Consent Order are still alive. (T. 54) Several testimonial letters were presented (Exhibits B to F and G) and evidence of continuing education was submitted to show compliance with the Virginia Order. (Exhibit F)

As to the penalty, the Hearing Committee determined that the people of New York State would be protected by a suspension of the Respondent's license, pending his full reinstatement in both Virginia and Pennsylvania. The Hearing Committee also determined that, after his reinstatement in both Virginia and Pennsylvania, the Respondent may then petition for a lifting of the New York Suspension upon a showing to the Director OPMC of his current competence in the field of medicine he wishes to practice in.

Thus, on review of all the facts and circumstances in this case, the panel determined that the Respondent's New York license to practice medicine should be suspended, wholly, until such time as he complies with the terms and conditions of the board's order, which order will entail a requirement that the Virginia and Pennsylvania suspensions be lifted. Furthermore, the Respondent will then have to satisfy the New York OPMC Director as to his current competency to practice medicine.

#### ORDER

#### **IT IS HEREBY ORDERED THAT:**

1. The license of the Respondent to practice medicine in New York State is suspended until such time as the Respondent's license to practice medicine in the Commonwealths of Virginia and Pennsylvania is fully reinstated and the suspensions in those jurisdictions are lifted.
2. The license of the Respondent to practice medicine in New York State is suspended until such time as the Respondent's license to practice medicine in the Commonwealths of Virginia and Pennsylvania is fully reinstated and the Respondent, upon application, satisfies the Director of the New York OPMC as to his current competency to practice medicine.

3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Albany, New York  
November 23, 2010

REDACTED

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Lyon M. Greenberg, M.D., Chair

Michael J. Reichgott, M.D., Ph.D.  
Gail S. Homick

To:

John Everett Crews, III, M.D.,  
Respondent  
REDACTED

James W. Hyde, Esq.  
Law Offices of James E. Long, Esq.  
Attorney for Dr. Crews  
668 Central Avenue  
Albany, New York 12206

Michael G. Bass, Esq.  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower Building, Room 2512  
Albany, New York 12237

## APPENDIX 1

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



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IN THE MATTER  
  
OF  
  
JOHN EVERETT CREWS III, M.D.  
CO-09-03-1625-A

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NOTICE OF  
REFERRAL  
PROCEEDING

TO: JOHN EVERETT CREWS III, M.D.  
REDACTED

**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 Procedures Act §§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 21<sup>st</sup> day of July, 2010, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that 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 who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/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, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748); (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

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 not less than ten (10) days prior to the date of 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 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 written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated below. Pursuant to §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. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence, and a description of physical and/or other evidence that cannot be photocopied.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here *f* *✓*

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 (5) 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

*May 14*, 2010

REDACTED

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

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IN THE MATTER  
OF  
JOHN EVERETT CREWS III, M.D.  
CO-09-03-1625-A

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STATEMENT  
OF  
CHARGES

JOHN EVERETT CREWS III, M.D., Respondent, was authorized to practice medicine in New York state on June 23, 1998, by the issuance of license number 210944 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about February 6, 2009, the Virginia Board of Medicine (hereinafter "Virginia Board"), by a Consent Order (hereinafter "Virginia Order"), inter alia, SUSPENDED Respondent's license to practice medicine, for not less than six (6) months, based on intentional or negligent conduct that causes or is likely to cause injury to a patient or patients; conducting his practice in such a manner as to be a danger to the health and welfare of his patients or the public; and performing an act likely to deceive, defraud, or harm the public.

B. The conduct resulting in the Virginia Board 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. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(4) (gross negligence);
4. New York Education Law §6530(5) (incompetence on more than one occasion);
5. New York Education Law §6530(6) (gross incompetence);
6. New York Education Law §6530(30) (abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care); and/or
7. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).



SPECIFICATIONS  
FIRST SPECIFICATION

Respondent violated New York State Education Law §6530(9)(b) 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 New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having his license to practice medicine suspended and/or having other discipline action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *May 14*, 2010  
Albany, New York

REDACTED

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