



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

PUBLIC

December 4, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
Paul Robert Maher, Esq.
NYS Department of Health
Hedley Building-4th Floor
433 River Street
Troy, New York 12180

Arthur Chester Bieganowski, M.D.
Inmate No. 90310-080
Fort Worth Medical Center
3150 Horton Road
Fort Worth, Texas 76119

RE: In the Matter of Arthur Chester Bieganowski, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 02-367) 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), 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.

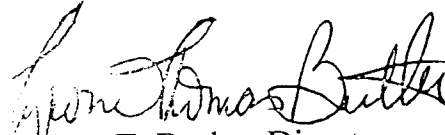
The notice of review served on the Administrative Review Board should be forwarded to:

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 black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T' and 'B'.

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

DETERMINATION

OF

AND

ARTHUR CHESTER BIEGANOWSKI, M.D.

ORDER

BPMC #02-367

A hearing was held on November 20, 2002, 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 August 26, 2002, were served upon the Respondent, **Arthur Chester Bieganowski, M.D.** **John W. Choate, M.D.**, Chairperson, **Theresa S. Briggs, M.D., Ph.D.**, and **Ms. Virginia R. Marty**, 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. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Paul Robert Maher, Esq.** and **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing, either in person or by 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.

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 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: None

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. All Hearing Committee findings were unanimous.

1. Arthur Chester Bieganowski, M.D., the Respondent, was authorized to practice medicine in New York State on August 18, 1970, by the issuance of license number 106926 by the New York State Education Department (Petitioner's Ex. 4).

2. On May 12, 2000, in the United States District Court, District of Western Texas, the Respondent was found guilty of one count of Conspiracy to Commit Mail Fraud in violation of 18 U.S.C. 1341 and 371, three counts of Aiding and Abetting to Commit Mail Fraud in violation of 18 U.S.C. 1341 and 2, five counts of Mail Fraud in

violation of 18 U.S.C. 1341, and one count of Conspiracy to Launder Monetary Instruments in violation of 18 U.S.C. 1956. On August 25, 2000, the Respondent was sentenced to serve 60 months confinement on each of eight counts and 168 months confinement on one count, all to be served concurrently, and two years supervised release to be served upon release from confinement; to pay \$23,049,853.38 restitution and a \$1,000.00 special assessment; and to forfeit \$11,000,000.00 and the proceeds from a parcel of real property. (Petitioner's 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, who is incarcerated, did not appear at the hearing. Petitioner's Exhibits 2, 3 and 6 prove that the Respondent was served with the Notice of Referral Proceeding and the Statement of the Charges. The Respondent requested and received an adjournment of the hearing date from September 5, 2002, the originally scheduled date, to November 20, 2002 (Petitioner's Ex. 6 and 7). The reason for the adjournment request was that the Respondent's criminal conviction was on appeal and he expected the appeal to be heard in the near future. There has been no subsequent communication from the Respondent to the Petitioner's attorneys, the Administrative Law Judge or the Hearing Committee. Specifically, there has been no request for an adjournment of the November 20, 2002, hearing date or any new information provided about the status of the appeal. The Administrative Law Judge, based on these facts, ruled that the hearing could proceed in the absence of the Respondent.

The Respondent was an integral part of a mail fraud and money laundering conspiracy so extensive that it resulted in a sentence requiring him to pay restitution of more than \$23,000,000.00. His term of imprisonment is 14 years. The crimes were directly related to his medical practice and billing for his medical practice.

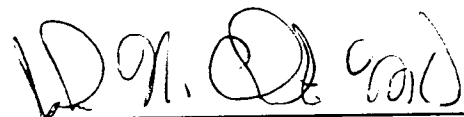
Because the Respondent did not appear at the hearing, the hearing record contains no evidence of mitigating circumstances, rehabilitation or remorse. The Petitioner recommended that the Respondent's license to practice medicine be revoked; the hearing record supports this recommendation.

ORDER

IT IS HEREBY ORDERED THAT:

1. The license of the Respondent to practice medicine is revoked.
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.

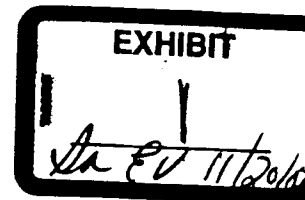
DATED: Austerlitz, New York
DECEMBER 1, 2002



John W. Choate, M.D.
Chairperson

Theresa S. Briggs, M.D., Ph.D.
Virginia R. Marty

APPENDIX I



IN THE MATTER
OF
ARTHUR CHESTER BIEGANOWSKI, M.D.
CO-02-04-1766-A

NOTICE OF
REFERRAL
PROCEEDING

TO: ARTHUR CHESTER BIEGANOWSKI, M.D.
Inmate No. 90310-080
Fort Worth Medical Center
3150 Horton Road
Fort Worth, TX 76119

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 20th day of September 2002, 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 September 10, 2002.

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 September 10, 2002, 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

August 26, 2002



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

IN THE MATTER
OF
ARTHUR CHESTER BIEGANOWSKI, M.D.
CO-02-04-1766-A

STATEMENT
OF
CHARGES

ARTHUR CHESTER BIEGANOWSKI, M.D., the Respondent, was authorized to practice medicine in New York state on August 18, 1970, by the issuance of license number 106926 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 12, 2002, in the United States District Court, District of Western Texas, Respondent was found guilty, of one (1) count of Conspiracy to commit mail fraud in violation of 18 U.S.C. 1341 and 371 (3) counts of Aiding and abetting to commit mail fraud in violation of 18 U.S.C. 1341 and 2, five (5) counts of Mail fraud in violation of 18 U.S.C. 1341, and one (1) count of Conspiracy to launder monetary instruments in violation of 18 U. S.C. 1956, all felonies, and on or about August 25, 2000, was sentenced to 60 months confinement on each of eight (8) counts and 168 months confinement, on one (1) count to be served concurrently, two (2) years supervised release on each of ten (10) counts to be served concurrently upon release from confinement, to pay \$23,049,853.38 restitution and a \$1,000.00 special assessment, and to forfeit the proceeds of real property located at 208 Whispering Sands, Santa Teresa, NM and \$11,000,000.00 United States currency.

SPECIFICATION

Respondent violated New York 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: *August 26* 2002
Albany, New York

Peter D. Van Buren

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