



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

March 25, 2005

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

William Bowens, M.D.
30 Zachary Taylor Street
Stony Point, New York 10980

Denise L. Quarles, Esq.
Quarles & Associates
405 Lexington Avenue
Suite 2600
New York, New York 10174

Robert Bogan, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street – 4th Floor
Troy, New York 12180

RE: In the Matter of William Bowens, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 05-50) 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.

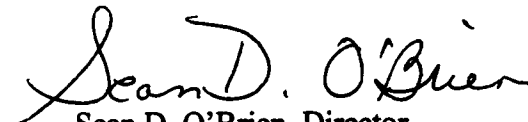
The notice of review served on the Administrative Review Board should be forwarded to:

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,


Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

IN THE MATTER
OF
WILLIAM BOWENS, M.D.

BPMC #05-50
DETERMINATION

AND

ORDER

COPY

A hearing was held on March 16, 2005, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Hearing and a Statement of Charges, both dated August 23, 2004, were served upon the Respondent, **William Bowens, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Lyon M. Greenberg, M.D.**, Chairperson, **Robert J. Corona, D.O.**, and **Rev. Edward J. Hayes**, duly designated members of the State Board for Professional Medical Conduct ("the Board"), 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 in person and was represented by **Denise L. Quarles, Esq.**, Quarles & Associates, 405 Lexington Avenue, Suite 2600, New York, New York 10174.

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). This section authorizes the Board to appoint a hearing committee of three of its members to hold an administrative hearing to determine whether a physician has committed professional misconduct and, if so, to determine the penalty to be imposed.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(i), and 6530(21). Copies of the Notice of Hearing and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	William Bowens, 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. William Bowens, M.D., the Respondent, was authorized to practice medicine in New York State on August 26, 1977, by the issuance of license number 131967 by the New York State Education Department (Petitioner's Ex. 4).

REDACTION

REDACTION

5. On August 8, 2002, in the Stony Point Court, the Respondent was found guilty, based on a plea of guilty, of a violation of the firearm licensing statute, New York Penal Law Section 400.00, a class A misdemeanor, and was sentenced to a conditional discharge and a \$125.00 surcharge (Petitioner's Ex. 5).

6. At the time of his arrest, the firearm that was the subject of the Respondent's conviction was owned by the Respondent and was registered in Virginia, but not in New York State (Respondent's testimony.)

7. On May 10, 2003, the Respondent submitted to the Petitioner an application for renewal of his registration as a physician in New York State. On this application, he answered "Yes" to the question, "Since your last registration application, a. Have you been found guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or misdemeanor) in any court?" On this application, the Respondent circled the word "misdemeanor" in the question. (Petitioner's Ex. 4).

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10. On June 14, 2004, the Respondent updated his New York State Physician Profile by notifying the Petitioner of his August 8, 2002, criminal conviction (Petitioner's Ex. 7 and 10).

VOTE OF THE HEARING COMMITTEE

REDACTION

"Respondent violated New York Education Law Section 6530(9)(a)(i) by having been convicted of committing acts constituting a crime under New York state law..."

VOTE: Sustained (3-0)

REDACTION

3

EIGHTH SPECIFICATION

"Respondent violated New York Education Law Section 6530(21) by failing to file a report required by law or by the department of health or by the education department..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

This hearing involves the Respondent's his conviction
on one misdemeanor charge, , and the
Respondent's alleged attempts to conceal these events when he had
a duty to disclose them.

he pled guilty to and
was convicted on August 8, 2002, of violating New York State Penal Law Section 400.00,
the statute that prohibits possession of a firearm without a license. This crime is a class A
misdemeanor.

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The next issue to be addressed is the Respondent's duty to keep his New York State Physician Profile current. The Respondent acknowledged in his testimony that he had a duty to inform the Petitioner about his conviction within thirty days thereafter, so that his Physician Profile could be updated. The Respondent did not update his Physician Profile, however, until June 13, 2004, approximately one year and ten months after his misdemeanor conviction. The Petitioner alleged that this delay constituted

professional misconduct

failing to file a report required by law or by the Petitioner (Eighth Specification).

The Respondent testified credibly that his failure to update his Physician Profile was not willful or intentional; it was an oversight. He testified that at the time of his conviction, he was in a hectic situation. He was a Colonel in the Army Reserves and was about to return to active duty and be sent overseas. He testified that during this stressful time he forgot that he needed to update his Physician Profile. When reminded of this duty by Christopher Morley, a Supervising Medical Conduct Investigator employed by the Petitioner, the Respondent updated his Physician Profile.

The Hearing Committee notes that on May 10, 2003, the Respondent filed with the Petitioner an application for renewal of his registration as a physician in New York State. On this application, the Respondent disclosed his misdemeanor conviction. A physician who intended to conceal his conviction from the Petitioner by not updating his Physician Profile would not, during the same time period, disclose the conviction to the Petitioner on his registration renewal application. The disclosure on the renewal application corroborates the Respondent's testimony that his failure to update the Physician Profile promptly was unintentional.

The specification regarding failure to file a required report will be sustained.

this specification is based on a part of the definition of professional misconduct that is not limited to intentional or willful wrongdoing. Pursuant to

Education Law Section 6530(21), a negligent or careless failure to file a required report also constitutes professional misconduct.

REDACTION

The Fourth Specification is that the Respondent has been convicted of a crime. It was undisputed that this specification is true. This specification will be sustained.

The Hearing Committee has concluded that two specifications will be sustained. They are the misdemeanor conviction (Fourth Specification) and the failure to file the update to the Physician Profile in a timely manner (Eighth Specification). The only remaining issue is what sanction, if any, will be imposed for these acts of professional misconduct. The Hearing Committee concludes that there is no need to impose any sanction.

There are mitigating circumstances for both specifications. As mentioned before, the failure to update the Physician Profile was an unintentional mistake during a hectic and stressful period in the Respondent's life, that is, the time that he was being recalled to active military duty and sent overseas. While this does not totally excuse the Respondent's mistake, it is a factor of considerable importance. Regarding the misdemeanor conviction, the Respondent testified credibly that he had not intentionally ignored the New York State gun registration statute and that the gun was registered in his former home state of Virginia. He simply forgot to reregister the gun when he moved to New York State. Again, this factor does not totally excuse the Respondent's conduct, but it is an important consideration.

Other factors in the Respondent's favor are that the two acts of professional misconduct had no negative effect on his patients and that they are, in the opinion of the Hearing Committee, isolated and atypical incidents in a long and distinguished career. The Hearing Committee notes that the Respondent achieved the military rank of Colonel,

an unlikely occurrence for someone whose character is as defective and untrustworthy as depicted by the Petitioner. The Hearing Committee simply sees no purpose to be served by imposing any sanction on the Respondent.

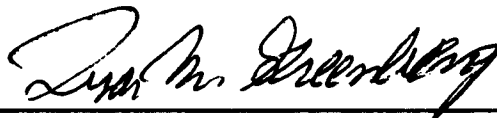
ORDER

IT IS HEREBY ORDERED THAT:

1. No penalty is imposed on the Respondent.
2. 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

March 25, 2005



Lyon M. Greenberg, M.D.
Chairperson

Robert J. Corona, D.O.
Rev. Edward J. Hayes

APPENDIX I

ORIGINAL



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

-----X

IN THE MATTER : NOTICE
OF : OF
WILLIAM BOWENS, M.D. : HEARING
CO-03-05-2336-A

-----X

TO: WILLIAM BOWENS, M.D.
30 Zachary Taylor Street
Stony Point, NY 10980

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 23rd of September 2004, at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York, 12180 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents and you may cross-

examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.


The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five(5) days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(c), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten(10) days prior to the date of the hearing. Any Charge and 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. 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.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO THE OTHER SANCTIONS SET OUT IN
NEW YORK PUBLIC HEALTH LAW SECTION 230-a.
YOU ARE URGED TO OBTAIN AN ATTORNEY TO
REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
8/23 , 2004


BRIAN M. MURPHY
Chief Counsel

Inquiries should be directed to:

Robert Bogan
Associate Counsel
Division of Legal Affairs
Bureau 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
WILLIAM BOWENS, M.D.
CO-03-05-2336-A

STATEMENT
OF
CHARGES

WILLIAM BOWENS, M.D., the Respondent, was authorized to practice medicine in New York state on August 26, 1977, by the issuance of license number 131967 by the New York State Education Department.

FACTUAL ALLEGATIONS

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C. On or about August 8, 2002, in the Stony Point Justice Court, Criminal Part, Rockland County, New York, Respondent was found guilty, based on a plea of guilty, of a violation of the Firearms Regulation, in violation of New York Penal Law, §400.00, a class A misdemeanor, and was sentenced a Conditional Discharge and a \$125.00 surcharge.

D. On or about August 8, 2002, to on or about June 13, 2004, Respondent failed to notify the New York State Department of Health updating his New York State Physician Profile, Physician Survey, with regard to the criminal conviction set forth in Paragraph C, above.

REDACTION

FOURTH SPECIFICATION

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

4. The facts in Paragraph C.


REDACTION

EIGHTH SPECIFICATION

Respondent violated New York Education Law §6530(21) by failing to file a report required by law or by the department of health or by the education department, in that Petitioner charges:

8. The facts in Paragraphs C and/or D.

DATED: *8/23*, 2004
Albany, New York



BRIAN M. MURPHY
Chief Counsel
Bureau of Professional Medical Conduct